

Approved February 8, 1990
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 January 24, 1990 in room 514-S of the Capitol.

All members were present ~~except~~:

Committee staff present:

Mike Heim, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Judge Charles E. Worden, Seventh Judicial District
James G. Malson, Director, Kansas Bureau of Investigation
Robert Byers, Social Service Supervisor, SRS Lawrence
Patti Barton, Everett, Washington

The Chairman opened the meeting with a bill request received from Senator Michael Johnston to exempt limitations on claims involving latent diseases, asbestosis was used as an example. (ATTACHMENT I)

Senator Feleciano moved to introduce the bill as requested by Senator Johnston. Senator Oleen seconded the motion. The motion carried.

The chairman announced that two subcommittees are assigned with bills scheduled for hearings on Thursday, February 1. (ATTACHMENT IV)

The Chairman reminded the committee that it begins a two day study session on child abuse prevention and reviewed the related bills for the hearings:

- SB 231 - Endangering a child to include failure to report child abuse by certain persons.
- SB 297 - Crime to knowingly make false allegations of child abuse and neglect.
- SB 306 - Disclosure of records and reports of child abuse or neglect.
- SB 522 - Concerning child abuse.
- SB 544 - Time limit for commencement of civil actions for damages suffered as a result of childhood sexual abuse.

Judge Charles E. Worden, Seventh Judicial District, addressed the committee on the topic of child abuse. He stated that sexual abuse of children is reported much more frequently now, it is the most serious and frequent crime before his rural, six county judicial district court. He reported the problem of identifying the class of sexual abuser, or pedophile, creates a problem in the court systems and referred the committee to the Attorney General's report that dealt with exploited and missing children.

Judge Worden then expressed concerns with SB 231. He questioned whether mandating the reporting of sexual abuse might create further problems for some older victims. He added further his concerns regarding: a need for a clear definition of "child abuse", to make possible a uniform, statewide interpretation and application; that convicted pedophiles, once the sentence is carried out, are often unconditionally released regardless of their pedophilic profile; and the current definition of "aggravated sodomy," in light of the current Supreme Court opinion of State v Maupin.

James G. Malson, Director, Kansas Bureau of Investigation, presented the committee with current statistics of reported child abuse related offenses for Calendar 1988 and January-September 1989. (ATTACHMENT II) He expressed support of SB 231 with the recommendation to amend Section 1(c) to include sexual abuse.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on January 24, 1990.

Director Malson stated he would like to see legislation that all cases of child abuse reported to SRS must be reported to law enforcement so that they can recognize potential problems. He added that law enforcement is trained to recognize child abuse and lots of times SRS is handicapped with not having enough foster homes to place endangered children and the child is returned to the same environment.

Robert Byers, Social Service Supervisor, SRS Lawrence, testified that the Kansas foster care system is currently in severe overload. He stated there are not enough resources to meet the needs and children are sometimes being left in at-risk situations. Mr. Byers testified in support of SB 231 and in opposition of SB 306 and SB 297. (ATTACHMENT III)

Patti Barton, Everett, Washington, addressed the committee by speaker phone in support of SB 544. She related her personal experiences as a victim of child sexual abuse and how the trauma of the experience caused memory loss. She stated that victims oftentimes are not able to recall the events until years later through therapy. She urged passage of SB 544 for the sake of adult victims who are now rediscovering their childhood abuse, as well as for the children currently being abused.

The hearings were continued to Thursday, January 25, 1990 at 10:00 a.m. in Room 514-S.

The meeting was adjourned.

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: Jan. 24, 1990
(1)

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
ATHENA E. ANDAYA	2033 OHIO, LAWRENCE	SEN. BOGAINA
Chris Bass	KDHE	KDHE
Charles Woodin	P.O. 70.	North. Ks.
Jim Clark	Topeka	KCDAA
Kyle Smith	Topeka	KBI
Jim Malson	TOPEKA	KBI
John Smith	Lawrence, KS	A.C.C.H
Rex Fuller	Topeka, KS	KLW
James O. Driscoll	Topeka	SRS Youth Services
Bob Samson	"	SRS Youth Serv
Tim McHenry	Topeka	Ks. Child Abuse Prevention Council
John Black	Topeka	ADD
Robert Byers	Lawrence	SRS
Kip Peterson	Salina	Page
Nancy Roth	Topeka	AG's office
Julienne Maslin	Topeka	AG
Busan B. Stanley	"	"
Kevin Anderson	Salina	Page
Robert Richards	"	Page
KEITH R. LINDIS	TOPEKA	CHRISTIAN SCIENCE COMM FOR PUBLICATION FOR KS
Candice Kelly	Topeka	KASB
Steve Kratke	McC Star	
Mary Burns	Lv KA	
Paula Malusci	Topeka	Intern
Mark Shicks	Lawrence	Intern

MEMORANDUM

TO: Senator Michael L. Johnston
FROM: Steve Goodman
DATE: January 18, 1990
SUBJECT: Proposed legislation exempting latent disease cause of action from current 10 year statute of limitations.

The Kansas Supreme Court has ruled in Tomlinson v. Cebtex that the ten-year limitation of K.S.A. 60-513 (b) does apply to claims involving latent diseases (such as asbestosis) and that the limitation is constitutional.

This would be a potential subject for legislation introduced by the Senate Judiciary Committee to exempt claims involving latent diseases from the ten-year limit.

Kansas apparently is the only state that by statute or court opinion has not exempted such claims from statutes of limitation.

Probably the best example of such claims that should be exempted is asbestosis or similar toxic-related diseases that often fail to show up for more than ten years after the cause is identified.

I suggest that we visit with Chairman Wint Winter and explore the possibility of introduction of the attached language as a committee bill.

A handwritten signature in cursive script, appearing to read "Dennis One". The signature is written in dark ink and is positioned below the main body of the memorandum.

BILL NO. _____

AN ACT concerning civil procedure; limitations on action for latent disease.

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

Section 1. No action may be brought to recover for a latent disease more than two years after the person suffering such disease is medically diagnosed or should have reasonably had knowledge, whichever occurs first.

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



JAMES G. MALSON
DIRECTOR

KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL

STATE OF KANSAS

1620 TYLER

TOPEKA, KANSAS 66612-1837

(913) 232-6000

January 24, 1990



ROBERT T. STEPHAN
ATTORNEY GENERAL

The attached table combines all offenses reported in the Incident Based Reporting System regardless of seriousness, as reported to the KBI for the time period Calendar 1988 and January-September, 1989. Each incident reported to the KBI may contain a maximum of three (3) statutory violations. The report excludes Wichita PD, Overland Park PD, Dodge city PD and the Johnson County Sheriff. These agencies are in the process of converting to the IBRS and are, therefore, not represented in this report.

James G. Malson
Director

Child Abuse Related Offenses
 Incident Based Reporting System
 Calendar, 1988, January-September, 1989

	Calendar, 88	January-September, 89
Indecent Liberties with Child under 16	1,045	832
Indecent Liberties, Aggravated, with Child under 16	54	30
Enticement of Child under 16	91	53
Indecent Solicitation of Child under 16	23	9
Indecent Solicitation, Aggravated, of Child under 12	18	9
Sexual Exploitation of Child under 16	20	11
Promoting the Sexual Performance of a Minor	2	1
Incest	27	12
Incest, Aggrated	178	84
Abandonment of a Child under 16	20	25
Endangering a Child	242	242
Abuse of a Child	584	452
Contributing to a Child's Misconduct or Deprivation	<u>106</u>	<u>111</u>
TOTAL	2,410	1,871

Child Protection

Robert Byers
Social Service Supervisor
Lawrence SRS

The number of intakes have risen within Douglas County steadily during the past 10 years. In 1979 Douglas County received 379 child abuse and neglect intakes. In 1989 855 intakes were received. During the same period of time staff to handle the investigations increase by 1 position. During 1985 when the Kansas Code for the Care of Children was enacted responsibilities were moved from Court Services staff to Child Protection. These responsibilities include investigation and services provided to Truants, Wayward and Runaway children. The responsibilities increased within CPS with no additional staff being added.

At present time the Child Protection system within the State of Kansas is working at an overload. Trying to cover the ever increasing numbers of intakes with limited staff. The safety net for children has developed major holes within it.

In many area offices around the State CPS staff have developed screening procedures in order to assure that the most serious cases of Abuse and Neglect get investigated. Leaving the least serious cases undone until such time as there is available worker time.

In Douglas County preventative service to families in crisis are quickly becoming a thing of the past. Due to the overload workers, who in the past would provide Family Services, now provide mainly investigations.

The result is that more children enter the foster care system. That families who in the past with preventative services would not enter the court system can no longer receive service placing their child at high risk for abuse or neglect.

Senate Bill No. 306

Concerning records and reports of child abuse or neglect.

Any law enforcement agency or agency charged with the responsibility of investigation or treatment of child abuse or neglect currently has access to the information. In the State of Kansas the agencies or law enforcement and SRS. Mental Health facilities gain access through signed releases of information by parents.

Senate Bill No. 231

Crime and punishments, relating to endangering a child

Under the child in need of care code the no abusive parent is held responsible for the actions of the abusive parent. By this legislation the criminal code will support the civil penalties. Making it more serious for a none-perpetrating parent not to report abuse or neglect. This action would assist in prevention efforts.

Senate Bill No. 297

False reporting of allegation of child abuse and neglect

SRS does receive a minimal number of false reports of child abuse or neglect. In general few of the reports although false are done as harassment. The addition of this legislation may hinder reporting of abuse or neglect out of a fear that what is being reported may turn out not to be abuse or neglect.

SENATE JUDICIARY SUBCOMMITTEES
January 24, 1990

Real Estate and Commercial Law Subcommittee

Senator Jerry Moran, Chairman

Members:

Senator Paul Feleciano
Senator Frank Gaines
Senator Dave Kerr
Senator Lana Oleen
Senator Marge Petty
Senator Winter*

Meeting Time: 10:00 a.m.
Room 514-S

Probate and Civil Procedure Subcommittee

Senator Eric Yost, Chairman

Members:

Senator Dick Bond
Senator Phil Martin
Senator Bill Morris
Senator Nancy Parrish
Senator Richard Rock
Senator Wint Winter*

Meeting Time: 10:00 a.m.
Room 522-S (if available)

*by Designation

Bills in Subcommittee

Real Estate and Commercial Law Subcommittee -- Senator Moran Chair

SB 510 - Providing for a security interest and lien on severed oil and gas and certain oil and gas leasehold estates to secure payment to owners of interest entitled to payment by reason of the sale of severed oil or gas.

by Hayden; referred 1-22-90

SB 527 - pertaining to unenforced foreclosure judgments, cancellation, judgment dormancy and renewal affidavits.

by Judiciary; referred 1-22-90 (request of Kansas Judicial Council on behalf of Supreme Court)

HB 2432 - Transfer of property prior to payment of personal property tax; bankruptcy proceedings.

by Committee on Local Government; referred 3-8-89

HB 2478 - Abandoned personal property liens may be removed from records by register of deeds.

by Committee on Judiciary; referred 3-8-89

Probate and Civil Procedure Subcommittee -- Senator Yost Chair

SB 261 - Probate code, disposition of property by will or other lawful disposition effective at death.

by Committee on Judiciary; referred 2-15-89

SB 321 - Service of process by mail for limited action.

by Committee on Judiciary; referred 2-23-89

SB 338 - Inheritance tax, gross estate determination; liens.

by Committee on Federal and State Affairs; referred 2-1-89