

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 25, 1990 in room 514-S of the Capitol.

All members were present except: Senator Martin who was excused.

Committee staff present:

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

Conferees appearing before the committee:

Dr. Bonnie Buchele, Director of Group Psychotherapy and Treatment Coordinator of the
Shawnee County Incest Diversion Program, The Menninger Clinic
Edwin A. Van Petten, Deputy Attorney General
Dr. James McHenry, Executive Director, Kansas Child Abuse Prevention Council
Robert C. Barnum, Commissioner of Youth Services, Kansas Department of Social and
Rehabilitation Services
Lynn Bourne, USD 501

The Chairman opened the meeting by recognizing Senator Dave Kerr who presented a request for introduction of a bill to add to the definition of severe mental disability in the Civil Commitment and Release Procedures to include those people who are dangerous because of sex abuse (dangerous pedophiles).

Senator Bond moved to introduce a bill as Senator Kerr outlined. Senator Moran seconded the motion. The motion carried.

The Chairman reopened the study session on child abuse prevention and related bills.

- 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.

Dr. Bonnie Buchele, Director of Group Psychotherapy and Treatment Coordinator of the Shawnee County Incest Diversion Program, The Menninger Clinic, testified in support of SB 544 outlining the often traumatic and tragic results of childhood sexual abuse that never goes away. (ATTACHMENT I)

Edwin A. Van Petten, Deputy Attorney General, presented testimony on the topic of child abuse; in support of SB 231 with a suggested amendment; with reservations on SB 297; and in support of SB 306, SB 522, and SB 544. (ATTACHMENT II)

Dr. James McHenry, Executive Director, Kansas Child Abuse Prevention Council, presented statistical data on child abuse and neglect. (ATTACHMENT III) He submitted written testimony in support of SB 231, SB 297, and SB 522. (ATTACHMENTS IV, V and VI)

Robert C. Barnum, Commissioner of Youth Services, Kansas Department of Social and Rehabilitation Services, testified in support of the intent in SB 231, but with reservations as expressed by Mr. Van Petten. He further added that SRS supports SB 297, SB 306, and SB 522 with suggested amendments on each. (ATTACHMENTS VII, VIII, and IX)

Lynn Bourne, member of a multi-disciplinary team in USD 501 that works with abused children, shared experiences as an SRS referral agency. She stated that feedback from, and communications with, SRS are major problems. Her team often lacks the information

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on January 25, 1990.

needed, that SRS has, to deal effectively with the situations they are handed. She said it creates development delays in treatment programs with the children the losers. She shared with the committee a specific case of clinical child abuse in which, because of "the run around from SRS and the police," the child ultimately died as a result of being pushed down a flight of stairs. The case is still "open" with the Shawnee County District Attorney's office, no charges have been filed to date. Ms. Bourne expressed her concerns and convictions that, "there needs to be some way to reverse the quality of services in the SRS system for the sake of the children in dangerous situations."

Due to the number of conferees remaining to be heard and the expiration of committee meeting time, the hearing was continued to Friday, January 26, 1990 at 9:30 a.m. in Room 514-S.

The meeting was adjourned.

Written testimony was distributed to the committee from:

James Clark, Executive Director, Kansas County and District Attorneys Association, in opposition to SB 297. (ATTACHMENT X)

Mary Burns, Leavenworth, regarding personal experiences with SRS. (ATTACHMENT XI)

COM. FEE: SENATE JUDICIARY COMMITTEE

DATE: Jan 25, 1990
(1)

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Chris Ross		KDHE
Jim McHenry	Topeka	Ks. Child Abuse Prevention Council
John Wine	Topeka	"
Mary Hirsch	Topeka	Att. Gen.
Ed Van Petten	"	" "
Julene Maslow	"	" "
Nancy Lindberg	"	"
Cindy Kelly	"	KASB
Greg Pann	"	Youth Soc
Jim Hart	"	"
Rex Fuller	"	KLW
Jack Gravelle	Perry	A.C.C.H.
KETH R LANDIS	TOPEKA	CHRISTIAN SCIENCE COMM. ON PUBLICATION FOR KS
Abigail B Calkin	Topeka	USD 501
Anne M. Bourne	Topeka, Ks	
Gayle Black	Topeka	IDS ADD
Delra Billmopley	Topeka, KS	Shawnee Cty D.A.
Stan Schmidt	Topeka, KS	" " "
BONNIE BUCHELE	TOPEKA	MENKINGER
Leo P. Moore	Topeka	Intern D. Kerr
Berdale Thomas	Topeka	Page
Nicole Emerson	" "	Page
Randy	Topeka	FTLA
Tommy Humphrey	"	KAIHA

January 25, 1990

TESTIMONY OF BONNIE J. BUCHELE
TO THE SENATE JUDICIARY COMMITTEE

JANUARY 25, 1990

Chairman Winter and members of the Committee, my name is Bonnie Buchele. I am the Director of Group Psychotherapy and Treatment Coordinator of the Shawnee County Incest Diversion Program at The Menninger Clinic. I am also on the faculty of the Karl Menninger School of Psychiatry. My academic background includes a master's degree in Counseling and a Ph.D. in Counseling Psychology from the University of Kansas. I have a number of publications on the subject of sexual assault, most recently including a book Fugitives Of Incest: A Perspective From Psychoanalysis and Groups co-authored with Dr. Ramon Ganzarain, and an article Psychodynamics Of Incest Perpetrators also co-authored with Doctor Ganzarain. I have made numerous presentations on this topic locally, nationally and internationally. I lectured on the subject of treatment of intrafamilial sexual abuse at The National Judicial College in Reno, Nevada, in 1987; and at two international congresses for group psychotherapy, one in Zagreb, Yugoslavia, and the other in Amsterdam in 1989. I am a regular lecturer on incest at two national yearly conferences. I have been treating, evaluating, consulting, or diagnosing incest victims/survivors since 1973 and at this point the number is probably in excess of 1,000 cases. My experience with incest offenders is less because I started that only in 1986; that number is probably now exceeding 150 cases.

I have been asked to testify regarding how it is that people can actually forget childhood abuse, remembering it for the first time years after it happens or how they can develop symptoms related to the childhood sexual abuse years after it stops. The answers to these questions logically impact on any

statute of limitations as it relates to the crime of childhood sexual abuse.

First of all, people who have been sexually abused in childhood are subjected to a trauma, that is some event which simply overwhelms the mind and leads to an unbelievable sense of helplessness. The mind copes with being overwhelmed by various methods. One of the most common types of adaptation, is a coping mechanism called repression. Actually what this means is that people simply forget what has happened to them because it is too painful to remember. Complete forgetting never really occurs, however, because the memory is always stored in the unconscious. It may return in pieces or at certain times so that forgetting can alternate with periods of reliving the experience. This reliving can take many forms, such as actually remembering, having flashbacks, dreaming, etc. The point is that when the mind remembers and forgets in this alternating way, remembering occurs at a rate that the mind can handle so that eventually a sense a mastery is achieved. What we have here then is what people in my business call Post-Traumatic Stress Disorder. Titrating the rate of the memories either naturally or via psychological treatment is the way that the mind heals. Now, many events can trigger the memories of the actual abuse which have been forgotten, or temporarily stored in the unconscious. Typical events that can be triggers are things such as starting dating, first sexual experiences, getting married, first pregnancy, first birth, a victim's child approaching the age of that victim when the abuse first began, contact with the offender or the death of the offender. Specifically what I am saying is that a person who has been sexually abused in childhood can forget all of the abuse but any of the above events can trigger remembering. Recovering from sexual abuse in childhood is a lifelong task. Thus it is that new memories can be retrieved at any point in the life span.

Symptoms too may occur years after the actual abuse has stopped. Sometimes the life events listed above cause undue stress which the mind attempts to handle via symptom formation. Typical symptoms that can be expected as a result of intrafamilial childhood sexual abuse are depression (to the point of suicidal ideation and action), an impaired sense of who one is, low self-esteem, sexual dysfunction, dissociative phenomena such as multiple personality disorder, somatic difficulties, troubled interpersonal relationships (particularly heterosexual ones), and a vulnerability to repeating the sexual abusive situation with the person's own children. There are many other possible symptoms; we do not have time today to go into all of them. My point simply is that different phases of the life cycle and various life events can trigger the development of symptoms or the remembering of long forgotten events for persons sexually abused in childhood. Psychologically, therefore, any statute of limitations is applying an arbitrary limit to remembering which can occur as long as the victim is alive. From my perspective the longer the statute of limitations the better.



STATE OF KANSAS

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TESTIMONY

DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN
OFFICE OF ATTORNEY GENERAL
BEFORE THE SENATE JUDICIARY COMMITTEE
JANUARY 25, 1990
RE: CHILD ABUSE LEGISLATION

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Attorney General Stephan has asked that I talk with you about some observations and feelings we have regarding the child abuse measures before your committee.

Senate Bill 231 - We feel the intent of Senate Bill 231 is good, but should also be extended to cases involving sexual abuse. The bill uses the language of K.S.A. 21-3609 to define "abuse of a child". I would suggest incorporating the definition by reference to avoid subsequent attempts at amendments.

I strongly disagree with the provision of subsection 3 of section 1, which provides an affirmative defense to abused adults. I believe this provision in effect nullifies the whole bill, as it provides an excuse for failure to report this abuse.

Our responsibilities in developing the laws of society must first be to protect the innocent victim -- in this case abused children. An adult can make a decision to stay in an

abusive situation, but a child has no voice in the matter. We must require all adults to have the responsibility of at least reporting the abuse of children in their household.

Senate Bill 297 - The amendment as made would appear to only be applicable to the professionals addressed within the body of the amended statute (K.S.A. 38-1522). This is not where the problem lies in the false reporting of child abuse, but with feuding parents or collateral family members.

Public policy would seem to dictate the reporting of even suspected child abuse by the professionals listed. It is my fear that this measure would have a chilling effect on these persons, or even worse, provide an out for the non-caring professional who could merely state, "I did not believe it to be true, and did not want to make a false report".

Senate Bill 306 - We support this measure as it aids the dissemination of information to appropriate agencies involved in the investigative process, however properly safeguards the confidentiality of all information.

Senate Bill 522 - As you are aware this measure was proposed by the Criminal Justice Coordinating Council. The proposed amendments are meant to make the system more responsive to the needs of the child involved and hopefully

protect us from the future wrongs associated with the abuse of our children.

Senate Bill 544 - This is a measure that addresses a major problem faced by innocent victims. Even though I am not an expert in civil matters, I feel strongly that this measure deserves favorable consideration by this committee.

You received statistics from Director Malson of the K.B.I. yesterday. This shows you that child abuse is a major problem in our society. I ask that you consider my remarks and take the steps that you feel will do the most to protect these, the most innocent of victims.



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EXECUTIVE DIRECTOR

James McHenry, Ph.D.

Statistical Overview

A. Reports of Suspected Child Abuse and Neglect

FY 1984--	22,450
1985--	24,551
1986--	22,292
1987--	27,814
1988--	24,372
1989--	21,404 (Projected by KCAPC)

6 year average: 23,813 reports per year
Source: SRS Child Abuse and Neglect Information System (CANIS)

B. Confirmed Cases of Child Abuse and Neglect

Calendar Year 1984--	7,501	or	12/1000	children
1985--	6,564	or	10/1000	"
1986--	5,411	or	9/1000	"
1987--	3,755	or	6/1000	"
1988--	2,562	or	4/10000	"

Source: Statistical Review compiled by Dr. John Poertner, School of Social Welfare, University of Kansas

C. Trends of Concern to KCAPC

1. Alarming increase in cases of child abuse and neglect where there is a definite connection with alcohol and drug abuse.
2. Difficulty in locating sufficient foster care and other placement options which allow children to live in the least restrictive setting.
3. The damaging impact of divorce and custody battles upon children.

D. Summary

Taken collectively, our evidence points to a deterioration in the availability of services to:

- A. Prevent child abuse and neglect;
- B. Intervene effectively in cases where child abuse or neglect has been confirmed;
- C. Offer services to families in cases where children are considered at risk;
- D. Provide therapeutic services to abused children and their families;
- E. Provide appropriate training for individuals who work with abused and neglected children.

Testimony by James McHenry, Ph.D. KCAPC Executive Director



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EXECUTIVE DIRECTOR

James McHenry, Ph.D.

Testimony Regarding SB 231
Senate Committee on Judiciary
January 24, 1990

The Kansas Child Abuse Prevention Council supports the changes to current law proposed by SB 231. Our interpretation of the bill is that it increases reporting responsibility to include adult members of a household where abuse is being inflicted upon a child by another adult.

It is a demographic fact that an increasing number of children live in either single parent households or in homes where adults other than biological parents also reside. While this sociological development does not by definition increase the risk to children, it is nevertheless clear that in some cases the lack of emotional bonds between children and other adults living in the same household can produce tragic outcomes.

In an ideal world, natural parental protective instincts would ensure that children could grow up and mature in a nurturing environment. At KCAPC we are painfully aware that those instincts are sometimes lacking or altogether absent. When children's days become filled with dread, fear, and pain, then the State must use its protective powers. In the case of SB 231, the legislature is communicating to parents and other adults the importance of reporting abuse and neglect.

Item 3, regarding affirmative defense to a prosecution of endangering a child, strikes us as an appropriate provision with sound justification.

Testimony submitted by James McHenry, Ph.D.
KCAPC Executive Director



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EXECUTIVE DIRECTOR

James McHenry, Ph.D.

Testimony Regarding SB 297
Senate Committee on Judiciary
January 24, 1990

The Kansas Child Abuse Prevention Council supports the intention of SB 297 to make the reporting of an allegation of child abuse and neglect known to be false a class B misdemeanor.

KCAPC is very concerned about the overloaded state of the Kansas Child Protection System. SRS personnel and CPS workers have alerted us to circumstances where individuals knowingly make false reports of child abuse, thereby adding to the staggering number of reports needing investigation. Apparently a common scenario involves divorcing parents who advance the allegations during the course of custody disputes.

In the past, KCAPC has been concerned about a possible chilling effect of such legislation upon people's willingness to make reports when the circumstances warranted such action. We believe, however, that the phrase "known to be false" is sufficiently clear as to avoid possible public misinterpretation.

Testimony submitted by James McHenry, Ph.D.
KCAPC Executive Director



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EXECUTIVE DIRECTOR

James McHenry, Ph.D.

Testimony Regarding SB 522
Senate Committee on Judiciary
January 24, 1990

The Kansas Child Abuse Prevention Council supports the intention of SB 522 to facilitate the sharing of information regarding child abuse cases among appropriately concerned professionals. The bill appears to include key actors such as school personnel, CASA volunteers, and other individuals who might be members of a multidisciplinary team established to assist a particular child.

It is certainly essential that confidentiality guidelines be carefully safeguarded. On the other hand, confidentiality requirements should not present obstacles to appropriate information sharing among professionals who need to be coordinating their efforts on the child's behalf.

KCAPC has always supported the effort to create multidisciplinary teams. There is abundant evidence available both within Kansas and across the nation that such approaches are often the key to success in working with children who have been abused or neglected. The most current evidence comes from California, where multidisciplinary teams are being formed to assist children born addicted to cocaine. The scale of the challenge makes cooperation a practical necessity.

As public awareness regarding the social and economic costs of child abuse and neglect has increased, both private agencies and governmental institutions have sought out ways to collaborate in providing prevention, intervention and treatment services. While these efforts remain woefully underfunded, there is hope that closer coordination of effort can make a difference in the lives of many children and their families. To the extent that SB 522 encourages such communication and coordination, it deserves your active support.

Testimony submitted by James McHenry, Ph.D.
KCAPC Executive Director

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Statement Regarding S.B. 297

1. Title

An Act concerning children; providing for criminal remedy for false reporting of allegation of child abuse and neglect; amending K.S.A. 1987 Supp. 38-1522 and repealing the existing section.

2. Purpose

The purpose of this bill is to provide a criminal sanction for those persons who knowingly make false reports of suspected child abuse, neglect or sexual abuse.

3. Background

The problem of false reporting of child abuse, neglect or sexual abuse is a growing concern in Kansas as well as nationally. Such reports cause unwarranted stress to families and divert time and services from legitimate child protection activities.

False and malicious reporting is most often the result of family squabbles and divorce custody cases in which one estranged spouse accuses the other of child abuse in order to inflict revenge or to use as a weapon in gaining custody. Such reports have an additional cost to society by eroding public trust of the protective agencies and weakening the laws designed to protect children.

4. Effect of Passage

This amendment would provide a mechanism for holding the person who makes false and malicious reports accountable for his or her action.

There is some concern that its provisions would introduce confusion in the minds of potential reporters about when to report and might cause fewer valid cases to be reported out of the reporter's concern about prosecution. The addition of the word "malicious" to the amendment would mitigate that possibility and we offer such an amendment.

Though this bill has no direct fiscal impact, its passage may allow some relief to already over-extended child protection staff.

5. Recommendation

SRS recommends passage of this bill. We also recommend that the bill be amended to add the qualifier of "malicious" to reporting.

Winston Barton
Office of the Secretary
Social and Rehabilitation Services
(913) 296-3271

Malicious

81 (h) Reporting of an allegation of child abuse and neglect known
82 to be false is a class B misdemeanor.

83 Sec. 2. K.S.A. 1988 Supp. 38-1522 is hereby repealed.

84 Sec. 3. This act shall take effect and be in force from and after
85 its publication in the statute book.
86

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Winston Barton, Secretary

Testimony in Support of S.B. 306
AN ACT CONCERNING RECORDS AND REPORTS OF CHILD ABUSE AND NEGLECT

(Mr. Chairman), Members of the Committee, I am appearing today in support of Senate Bill 306 which increases those agencies with whom SRS may share information concerning the abuse or neglect of children when it is an agency charged with the responsibility of preventing or treating abuse, neglect or sexual abuse and the agency requesting the information has standards of confidentiality as strict or stricter than the requirements of the Kansas Code of Care of Children. Currently the statute restricts the authority to share information to other state agencies. Specifically this amendment would permit the sharing of information with military personnel charged, by federal law, to prevent and treat abuse and neglect involving military dependents through their Family Advocacy Program and with Native American tribal agencies operating under the Indian Child Welfare Act.

The Department of Defense charges the Family Advocacy Program (AR 608-18) with broad responsibilities which include the prevention of child abuse, ensuring prompt investigation of abuse, protection of the victims of abuse and treatment of family members involved in abuse. Kansas has three major military installations and close cooperation between the military and SRS is important in conducting investigations of abuse/neglect and providing services available through the Family Advocacy Program to children of military personnel who are abused or neglected.

There are also four Indian tribes which are served by tribal social services. Coordination and cooperation between SRS and the tribal social service agency will be enhanced by this amendment.

In addition to this amendment I am recommending a change in G of this section. Your handout includes a balloon of this proposed change that permits the sharing of information with any multidisciplinary team established in accordance with K.S.A. 38-1523. Current statutory language restricts the sharing of information with multidisciplinary teams appointed for a particular child. Some courts have indicated a willingness to authorize a standing team of experts to serve as a multidisciplinary team but they are unwilling to appoint a team for each particular child.

Robert C. Barnum
Commissioner
Youth Services
Department of Social and
Rehabilitation Services
(913) 296-3284

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Statement Regarding S.B. 306

1. Title

An Act concerning records and reports of child abuse or neglect; amending K.S.A. 1988 Supp. 38-1507 and repealing the existing section.

2. Purpose

To amend K.S.A. 38-1507(a)(2)(F) to increase those agencies with whom SRS may share information concerning the abuse or neglect of children when it is "an agency charged with the responsibility of preventing or treating physical, mental or emotional abuse or neglect or sexual abuse of children, if the agency requesting the information has standards of confidentiality as strict or stricter than the requirements of this code,..."

3. Background

Currently the Kansas Code for Care of Children permits SRS to share information with an agency of another state charged with the responsibility of preventing or treating abuse, neglect or sexual abuse. This change would broaden that authorization and would permit the sharing of information with federal as well as state agencies. Specifically this would permit the free exchange of information with professional staff responsible for social services on military installations and with Native American social service agencies formed in accordance with the Indian Child Welfare Act.

The Department of Defense charges the Family Advocacy Program (AR 608-18) with broad responsibility which includes the prevention of child abuse, ensuring prompt investigation of abuse, protection of the victims of abuse and treatment of family members involved in abuse. This must be accomplished in close coordination with the state courts which have jurisdiction over civil or criminal matters arising from child abuse or neglect and with the Kansas Department of Social and Rehabilitation Services which has responsibility for the investigation of reports of child abuse, whether civilian or military. The amendment would allow the sharing of information with the military personnel who are charged with the responsibility of preventing and treating child abuse within military families.

The Indian Child Welfare Act grants authority for tribal councils to provide the full range of child welfare services to Native Americans, including the investigation of abuse and neglect on Indian reservations.

4. Effect of Passage

The ability to share information regarding reports of abuse/neglect involving military dependents and Native Americans would aid in the investigation and would maximize services available to the family through the Family Advocacy Program of the Department of Defense and tribal councils.

5. Recommendation

SRS recommends passage of this bill. We also recommend that section G be amended to delete the restriction of sharing information with a member of a multidisciplinary team designated for a particular child. We recommend that this authority be granted to a member of any multidisciplinary team authorized under K.S.A. 38-1523.

Winston Barton
Office of the Secretary
Social and Rehabilitation Services
(913) 296-3271

SENATE BILL No. 306

By Committee on Public Health and Welfare

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AN ACT concerning records and reports of child abuse or neglect amending K.S.A. 1988 Supp. 38-1507 and repealing the existing section.

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

Section 1. K.S.A. 1988 Supp. 38-1507 is hereby amended to read as follows: 38-1507. (a) All records and reports concerning child abuse or neglect received by the department of social and rehabilitation services or a law enforcement agency in accordance with K.S.A. 38-1522 and amendments thereto are confidential and shall not be disclosed except under the following conditions:

(1) Upon the order of any court after a determination by the court issuing the order that the records and reports are necessary for the conduct of proceedings before it and are otherwise admissible in evidence, except that access shall be limited to *in camera* inspection unless the court determines that public disclosure of the information contained in the records and reports is necessary for the resolution of an issue then pending before it.

(2) The secretary or the law enforcement agency where the report is filed shall authorize access to any records or reports concerning child abuse or neglect to any of the following persons upon order of any court and may authorize access to such persons without a court order if the child involved is a subject of the record or report:

(A) A person licensed to practice the healing arts who has before that person a child whom the person reasonably suspects may be abused or neglected;

(B) a court-appointed special advocate for a child, which advocate reports to the court, or an agency having the legal responsibility or authorization to care for, treat or supervise a child;

44 (C) a parent or other person responsible for the welfare of a
45 child, or such person's legal representative with protection for the
46 identity of reporters and other appropriate persons;

47 (D) the guardian *ad litem* for such child;

48 (E) a police or other law enforcement agency investigating a
49 report of known or suspected child abuse or neglect;

50 (F) an agency of another state charged with the responsibility
51 of preventing or treating physical, mental or emotional abuse or
52 neglect or sexual abuse of children within that state, if the state
53 of the agency requesting the information has standards of confidential-
54 ity as strict or stricter than the requirements of this code; or

55 (G) a person who is a member of a multidisciplinary team ~~and~~
56 ~~formed by a partnership, corporation, or other entity~~, if the person has signed a confidentiality
57 agreement with standards as strict or stricter than the requirements
58 of this code.

59 (b) No individual, association, partnership, corporation or other
60 entity shall willfully or knowingly permit or encourage the unau-
61 thorized dissemination of the contents of records or reports con-
62 cerning child abuse or neglect received by the department of social
63 and rehabilitation services or a law enforcement agency in accordance
64 with K.S.A. 38-1522 and amendments thereto except as provided
65 by this code. Violation of this subsection is a class B misdemeanor.

66 Sec. 2. K.S.A. 1988 Supp. 38-1507 is hereby repealed.

67 Sec. 3. This act shall take effect and be in force from and after
68 its publication in the statute book.
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Department of Social and Rehabilitation Services

Winston Barton, Secretary

Testimony in Support of S.B. 522

AN ACT CONCERNING CHILD ABUSE

(Mr. Chairman), Members of the Committee, I appear today in support of Senate Bill 522 which deals with issues related to child abuse and changes in confidentiality requirements.

Background: Several groups have expressed concern that the confidentiality restrictions to the sharing of information between professionals interferes with the ability to provide cooperative services and requires unnecessary duplication of services. The Court/Education/SRS Liaison Committee and the Criminal Justice Coordinating Council have both studied the issues and developed proposals which address their concerns in this area. The Advisory Commission on Juvenile Offender Programs sponsored a Policy Conference which involved 200 Kansas citizens and public officials in the study of juvenile policy issues. One of the strongest recommendations was to decrease the level of restrictiveness of the confidentiality requirements which hamper interagency cooperation and coordination.

Discussion: This bill reflects the thinking of a broad spectrum of professionals who work with juveniles and adults who were provided service as juveniles. By relaxing the confidentiality requirements you will enable a more collaborative and coordinated approach to addressing the needs of people. This will allow schools, courts, SRS and families to share information and to work together toward a coordinated strategy of addressing problems. This sharing of information and planning may reduce instances of duplication of services such as

testing, evaluation and counseling. We do not yet have clearance as to whether this will impact our eligibilimty for federal funds. We would like to support passage at this time with the knowledge that we may need to adjust at a later time.

This bill also permits the sharing of juvenile offender information with the Department of Corrections on individuals who are committed to the Secretary of Corrections. This change would provide much needed information from one state agency to another to facilitate the work of the state.

Action Requested: One technical amendment is needed.

Section 2. On page 3, line , lines 22 & 23, strike words juvenile offender's. This section addresses child in need of care only. The corresponding change is made for juvenile offenders in Section 9, on page 13, lines 18-20.

In the interest of improving services and the efficiency of service delivery, I urge your support of this bill.

Winston Barton
Secretary
Department of Social &
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1 for evaluation and the expenses of the evaluation may be considered
 2 as expenses of the proceedings and assessed as provided in this code.
 3 If the court orders an evaluation as provided in this section, a parent
 4 of the child shall have the right to obtain an independent evaluation
 5 at the expense of the parent.

6 (2) *Medical.* During proceedings under this code, the court may
 7 order an examination and report of the medical condition and needs
 8 of a child who is the subject of the proceedings. The court may also
 9 order a report from any physician who has been attending the child
 10 stating the diagnosis, condition and treatment afforded the child.

11 (3) *Educational.* The court may request the chief administrative
 12 officer of the school which the child attends or attended to provide
 13 to the court information that is readily available which the school
 14 officials believe would properly indicate the educational needs of the
 15 child. If the resources of the school permit, the school may conduct
 16 an educational needs assessment of the child and send a report of
 17 the assessment to the court. The educational needs assessment may
 18 include a meeting involving any of the following: The child's parents,
 19 the child's teachers, the school psychologist, a school special services
 20 representative and other persons that the chief administrative
 21 officer of the school, or the officer's designee, considers ap-
 22 propriate, a representative of the secretary, the juvenile/offender's
 23 C.A.S.A., the juvenile/offender's foster parents or legal guardian,
 24 and other persons that the chief administrative officer of the school
 25 or the officer's designee considers appropriate.

26 (b) *Of parent or custodian.* (1) *Physical, psychological or emo-*
 27 *tional.* During proceedings under this code, the court may order an
 28 examination, evaluation and report of the physical, mental or emo-
 29 tional status or needs of a parent or any other relative being con-
 30 sidered as one to whom the court may grant custody. Written reports
 31 and other materials relating to the examination and evaluation may
 32 be considered by the court but, if requested by any interested party
 33 in attendance, the court shall require the person preparing the report
 34 or other material to appear and testify.

35 (2) *Parenting skills.* At any dispositional hearing, the court may
 36 receive and consider written reports from any physician or qualified
 37 person concerning the parenting skills or ability to provide for the
 38 physical, mental or emotional needs and future development of a
 39 child by a parent or other relative being considered for custody. If
 40 requested by any interested party in attendance at the dispositional
 41 hearing, the court shall require the person preparing the report to
 42 appear and testify.

43 (c) *Confidentiality of reports.* (1) *Reports of court ordered ex-*

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Testimony in Opposition to Senate Bill 297

The Kansas County and District Attorneys Association opposes Senate Bill 297, which makes the false reporting of child abuse a class B misdemeanor.

While we are aware of the ramifications that such an occurrence has on a person falsely accused, there are similar ramifications for those falsely accused of other crimes. For them, and for one falsely accused of child abuse, there are other measures already existing in our law to protect, or at least to compensate them: civil actions for defamation, or the crime of falsely reporting a crime, which is a class A misdemeanor.

The direction of legislative efforts has been, and remains, the protection of children. To do that, we must encourage, require and demand that child abuse be prevented; but if it does occur, that it be reported so that it will not occur again. The message this bill sends would have a chilling effect on such reporting and would contribute to the further endangering of our children.

Mary Burp
Leavenworth

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I am a mother of 4 children, 2 of which are by a previous marriage, + 2 of which are by my present marriage. We have been married for 11 years so stability is not an issue. On December 14th, 1989 we received a hand delivered petition involving my two oldest children, child in need of care. On December 15th I contacted Yvette O'Hara, case worker at the SRS office + she requested that we meet with her. We agreed to meet with her + did meet with her. She told us that she had received 3 complaints of child in need of care, she did not however discuss this at the time. She encouraged us to waive the temporary hearing + let the children remain in State custody. We choose to seek out legal advice. The hearing was set for December 18th. At this hearing the reasons for temporary removal were disclosed, were unfounded, temporary custody vacanted, +

my children were to be returned on December 23rd. My children were returned on December 23rd. We began counseling session with Douglas Mead, also began psychologist testing + evaluation with Frederick Turrell. The case remained opened, SR5 was to be a supervisory agent + work toward improving family relations. On the contrary Yvette O'Hara was much more concerned + applied all of her energy in proving her case. She had even contacted the children's new school that there was an open custody court case with emotional + physical abuse being the issue. My oldest son who is 12 had disobied his babysitters request for him to stay in the yard + left to a neighbors house. I was contacted at my job + told of his disobience, I in turn told him he would not be allowed to go to a birthday party on January 13th.

I allowed another one of my children to attend this birthday party. My oldest son felt as though my decision was unfair, stated he hated this family + that he wanted to go back to Bethany Hospital. He also told me that he felt that I did not love him because of my decision. On Tuesday 1-9 Brian contacted SRS + told them he no longer wanted to live at home because we were unfair + yelled at him. He had supposedly told them that if he was made to go home he would kill himself, how ever for such a statement like that to have been made + not be used in court testimony is suspicious allegation. If Yvette O'Hara had really been told this, why was this statement conveniently overlooked while Yvette O'Hara was under oath. Fear of perjury maybe? Brian was right down

the hall, he could have told what was said. The reality is that SRS did not have a solid case the first time but our court date was fastly approaching + they had to justify their actions. We had a original court date of 1-22-90. However SRS made another motion for temporary custody of my 12 year old. The testimony + cross-examination lasted close to 2½ hours with the end result of Brian's removal of our home. My attorney moved to have the case dismissed because it boiled down to the parents unfairness in a nintendo game. The Judge denied the motion + Brian was turned over to states custody. My attorney stated he believed this case decision was arbitrary + capricious. The point is that a child can be removed on a whim with the laws the way they are now. Families are being destroyed + torn apart

by SRS + the court system. My son has been denied Pastoral care, We have been denied visits or contacts with Brian. The SRS is the only party allowed to have contact with Brian at this time. Where do the children's parents, who by the way have been falsely accused come in, if while a child is in states custody parents have no rights to find out anything about that child's treatment. What has happened to the remaining children in my home is another story. The only way I got my boys to go to school was to give them all phone numbers of attorneys to call if SRS came to get them. They were still pretty afraid to go to school. My youngest son looked at me + very rationally said "Brians gone - lawyers didn't help him." It's very devastating to a child + the

that is expressed when the child hopes that when their classroom door opens that it is not a SRS worker to take them away. Shawn asked if SRS comes to take me away, can I run + hide. These are suppose to be child protection workers. For children to fear them what protection does that provide? They say the parent places undue fear against SRS, but SRS places that fear themselves by some of the extreme tactics they use to justify their cases. The power these people have been given should justifiably scare every single American parent + child. These people are also not held accountable for any of their actions, no matter how grossly unethical those actions might be. The laws protect social workers who are nothing more than average people, except having a title, from any consequence of their actions.

Since this power is placed in human beings with human error in judgement being a tremendous issue, than this power should be highly supervised as to not be detrimental to our upcoming society. What are our children of these misfortunes, feeling about family when SRS uproots a child from a stable home & starts to shift from one place to another? How many of these children will view family the way our fore fathers viewed family? Our children depend on laws to protect family just as we depended on family while growing up. I wanted for my child & all children a happy normal childhood which does not include placing children in an institution. We the American family depend on laws to preserve the family unit & to make clear to those who are suppose to prevent

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the removal of children. SRS is more concerned with the funding provided by the state for the children that are in foster care. This is very serious + needs to be carefully evaluated before many more families find themselves in a system where no laws protect them. Thank you for your consideration of reviewing these extremely important laws.