

Approved 6-27-90
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Jerry Moran at
Vice-Chairperson

10:00 a.m./~~xxx~~ on March 19, 1990 in room 514-S of the Capitol.

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

Committee staff present:

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

Conferees appearing before the committee:

Galen Davis, Governor's Special Assistant on Drug Abuse
Gene Johnson, Kansas Alcoholism and Drug Addiction Counselors Association,
Kansas Association of Alcohol and Drug Program Directors, and
Kansas Community Alcohol Safety Action Project Coordinators Association
Edwin Van Petten, Deputy Attorney General
James Clark, Kansas County and District Attorneys Association

Vice Chairman Moran called the meeting to order by opening the hearing for HB 2770.

HB 2770 - concerning crimes and punishments; relating to liability for crimes of another.

Galen Davis, Governor's Special Assistant on Drug Abuse, testified in support of HB 2770.
(ATTACHMENT I)

Gene Johnson, Kansas Alcoholism and Drug Addiction Counselors Association, Kansas Association of Alcohol and Drug Program Directors, and Kansas Community Alcohol Safety Action Project Coordinators Association, testified in support of HB 2770. (ATTACHMENT II)

Edwin Van Petten, Deputy Attorney General, testified in support of HB 2770.
(ATTACHMENT III)

James Clark, Kansas County and District Attorneys Association, testified on HB 2770. He stated that the bill is broader than the criminal solicitation and conspiracy statutes by addressing the adults who use juveniles to commit crimes with an aiding and abetting measure. He added the change on line 35 and 39 changes the definitions to make it clear it includes persons who lack legal capacity, which includes juveniles. Mr. Clark added that he feels HB 2770 is a better bill technically than the similar SB 684.

This concluded the hearing for HB 2770.

The Chairman opened the hearing for HB 3039 which was continued from March 13, 1990.

HB 3039 - concerning controlled substances; relating to the forfeiture of property.

No additional conferees appeared to present testimony on HB 3039; the hearing was announced concluded.

The Chairman turned the committee's attention to discussion and possible action on the package of drug enforcement and prevention bills heard which include the two bills heard on this day and the following:

SB 683 - concerning controlled substances; relating to forfeiture of property; disposition of proceeds.

SB 684 - concerning crimes and punishment; relating to anticipatory crimes; when adult uses child in certain crimes.

SB 685 - concerning controlled substances; relating to forfeitures of property.

SB 686 - concerning criminal prosecution; relating to the statute of limitations.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY
room 514-S, Statehouse, at 10:00 a.m. ~~p.m.~~ on March 19, 1990.

- SB 702 - concerning crimes and punishments; relating to fines, dispositions and forfeitures; creating the Kansas bureau of investigation special asset forfeiture fund and the Kansas highway patrol special asset forfeiture fund.
- SB 703 - concerning criminal procedures; relating to diversion agreements; when prohibited.
- SB 704 - concerning crimes and punishment; relating to classification of penalties; sentencing.
- SB 705 - concerning crimes and punishment; relating to the use of firearms in drug offenses.
- SB 706 - concerning the uniform controlled substances act; relating to definition of sell.
- SB 707 - concerning the uniform controlled substances act; creating a separate offense for unlawful manufacture of controlled substances.
- SB 708 - concerning criminal procedure; relating to preliminary examinations.
- SB 709 - concerning crimes and punishments; relating to conspiracy.
- SB 710 - concerning crimes and punishments; relating to murder in the first degree.

Senator Gaines moved to recommend HB 2770 favorable for passage. Senator Bond seconded the motion. The motion carried.

Sentaor Gaines moved to recommend SB 684 adversely because it duplicates the content of HB 2770. Senator Morris seconded the motion. The motion carried.

Committee discussion included whether to address sentencing changes prior to the Sentencing Commission completing their work on the sentencing structure; the question of forfeiture, particularly regarding drug related situations; the disposition of special asset forfeiture funds; and whether the committee should proceed with action on these measures now or request the topics be assigned for interim study. It was the consensus of the committee to work the bills as much as possible and to recommend the related topics for interim study.

Senator Gaines moved to amend SB 702 to limit the increases of Section I to drug related cases only. Senator Yost seconded the motion. The motion carried.

Senator Gaines moved to amend SB 702 on page 8 to limit to a single special forfeiture asset fund assigned to the Attorney General's budget and to allow for expenditures only as approved by the Legislature or the Finance Council. Senator Kerr seconded the motion. The motion carried.

Senator Bond moved to request an interim study on the question of special forforeiture asset funds. Senator Morris seconded the motion. The motion carried.

Senator Gaines moved to conceptually amend SB 683 to make clear that the funds are to go to the county general fund for the special use of the special prosecutor fund. Senator Rock seconded the motion. The motion carried.

Senator Gaines moved to amend SB 683 and the special forfeiture asset fund section of SB 702 into HB 3039. Senator Petty seconded the motion. The motion carried.

The Chairman announced the committee would continue working these measures at the meeting scheduled on this date on adjournment of the Senate. The meeting was adjourned.

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: March 19, 1990

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Gene Johnson	Topeka	Alcohol & Drug Program
Kathleen McMahon	Gov. Office	Gov. Office
Galen Davis	"	"
ED VAN PETTEN	TOPEKA	A.G. Office
Kyle Smith	Topeka	KBI
Nancy Lundberg	Topeka	AG office
Jim Chisler	Topeka	KC 244
J.C. Anderson	Topeka	KSCPH
Larry J. Thomas	Topeka	KBI
Paul Shellen	Topeka	DJA
Ken Smith	"	KS Bar Assoc

March 19, 1990 a.m.

STATE OF KANSAS



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Mike Hayden Governor

Testimony Concerning H.B. 2770
Presented to
the Senate Judiciary Committee
March 19, 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 H.B. 2770.

This bill requests the establishment of a crime in the event an adult involves, entices, or coerces juveniles to violate our state's narcotics laws. The Governor believes that we owe our youth the protection from unscrupulous adults who would involve them in drugs. 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.

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

*Senate Judiciary Committee
3-19-90 a.m.
Attachment I page 1 of 2*

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.

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.

The bill also has the support of: The Overland Park Police Department; The Topeka Police Department; The Saline County Sheriffs Office; The Wichita Police Department; The Kansas City, Kansas Police Department; The Sedgwick County District Attorneys Office; Mothers Against Drunk Driving; The Lenexa Police Department; Jacob Gordon, KU Center for Black Leadership; Kansas Regional Drug Prevention Center; Dr. Eric Voth, St. Francis Chemical Dependency Program; Kansas Peace Officers Association, Kansas Troopers Association; Shawnee County Sheriffs Office; Leawood Police Department and Emporia Police Department.

Your support of H.B. 2770 will be appreciated. Thank you.

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TESTIMONY

SENATE JUDICIARY COMMITTEE

March 20, 1990

HOUSE BILL NO. 2770

Mr. Chairman and Members of the Committee:

I represent the Kansas Alcohol and Drug Addiction Counselors Association, the Kansas Association of Alcohol and Drug Program Directors and the Kansas Community Alcohol Safety Action Project Coordinators Association. These individuals and organizations crisscross our State to offer professional assistance for those persons who are afflicted with that fatal illness of alcoholism and drug addiction.

We have little use for those individuals who fatten their own pocketbooks in the illegal drug market. Some of those individuals in the illegal drug market are able to avoid detection as they use other people such as the youth of the State of Kansas to actually commit the crime. In our opinion, these individuals are just as guilty, if not more so, than those persons who actually violate the law. We support House Bill No. 2770 as a deterrent for those individuals who might entertain the idea of using other individuals in the State of Kansas to further their career in the pushing or the sale of illegal drugs. We also support the concept in this proposed legislation that such a person who intentionally aids, abets, advises, hires, counsels or procurs is just as guilty as the person who committed the crime. We also suggested in our previous testimony in the House of Representatives that this committee consider the possibility of adding the language necessary to this proposed legislation not to allow any type of plea bargaining for those individuals charged with this crime. This would send an even stronger message for those individuals who are relying on illegal drugs for their own financial gains.

Respectfully Submitted,


Gene Johnson
Lobbyist

Kansas Alcoholism and Drug Addiction Counselors Association
Kansas Association of Alcohol and Drug Program Directors
Kansas Community Alcohol Safety Action Project Coordinators Association

Senate Judiciary Committee
3-19-90 a.m.
Attachment II page 1 of 1



STATE OF KANSAS

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ATTORNEY GENERAL

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TESTIMONY OF
DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN
ON BEHALF OF ATTORNEY GENERAL ROBERT T. STEPHAN
BEFORE THE SENATE JUDICIARY
MARCH 19, 1990
RE: HOUSE BILL 2770

Attorney General Stephan appreciates this step suggested by Governor Hayden in House Bill 2770 to help stop the ever-growing problem of using juveniles to aid in the distribution of illegal drugs, or to commit related crimes.

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.

This bill as amended holds adults responsible for the actions of juveniles who are recruited by them to aid in the adult's criminal enterprise. The punishment then will be meted out to the adult involved for the crime committed at that adult's direction, which is as it should be.

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

*Senate Judiciary Committee
3-19-90 a.m.
Attachment III page 1 of 2*

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.

(3-19-90 a.m.)

III 3/2