

Approved 6-27-90
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

12:30 ~~xxxx~~ p.m. on March 27, 1990 in room 254-E of the Capitol.

All members were present except: Senators Feleciano, Gaines, Martin and Petty who were excused.

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:

Bruce Linhos, Children's Coalition
Ruth O'Donnell, Kansas Department of Social and Rehabilitation Services

The Chairman called the meeting to order by reviewing the pending motion of Senator Bond to table SB 616.

SB 616 - concerning crimes and punishments; relating to the displaying of obscene bumper stickers on motor vehicles.

Senator Bond withdrew his motion to table SB 616. Senator Morris withdrew his second. The question reverted back to the original motion by Senator Rock to recommend SB 616 favorable for passage.

Existing obscenity law was reviewed and discussion followed restating the comments of the 10:00 a.m. meeting.

Senator Morris made a substitute motion to amend SB 616 to make clear the existing obscenity statutes include, without limitation, bumper stickers. Senator Bond seconded the motion. The motion carried.

Senator Morris moved to recommend SB 616 favorable for passage as amended. Senator Yost seconded the motion. The motion carried.

The Chairman turned the committee's attention to SB 742 and HB 3041 as related topics.

SB 742 - concerning juveniles; prohibiting detention in adult jails; development of alternatives to detention.

HB 3041 - concerning juvenile offenders; relating to the length of detention.

The Chairman related to the committee the House Judiciary Committee had held hearings on some juvenile offender measures and would report some bill out of their committee, but had no progress to report as yet. He added that the juveniles in jail issue required some action during the 1990 Session to retain federal funding for the State of Kansas.

Bruce Linhos addressed the committee on behalf of the Children's Coalition in support of SB 742. He presented information to the members from Robert Barnum, Kansas Department of Social and Rehabilitation Services Youth Services Commissioner, and from The Westridge Group. (ATTACHMENTS I through III) He added that the majority of children in jail are not felons but rather Children in Need of Care.

Ruth O'Donnell, Kansas Department of Social and Rehabilitation Services Jail Alternatives Coordinator, addressed the committee in support of SB 742. She also referred to the information from Commissioner Barnum.

Discussion of the committee reviewed information presented to the committee during previous testimony. (See minutes and attachments of March 20 and March 21, 1990)

Senator Parrish moved to amend SB 742 changing the effective date for Children in Need of Care to July 1, 1990. Senator Bond seconded the motion.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,

room 254-E, Statehouse, at 12:30 ~~a.m.~~ p.m. on March 27, 1990.

Committee discussion followed on whether facilities would be available for all of Kansas by adoption of the deadline change. Discussion also addressed the cost of the facility requirements to solve the problems involved with Children in Need of Care.

Due to the loss of a quorum for action on the motion before the committee, the meeting was adjourned until 10:00 a.m., March 28, 1990.

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: March 27, 1990
12:30 p.m.

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Doug Bowman	Topeka	Children & Youth Advisory
Ruth O'Donnell	Topeka	SRS - Youth Services
Bruce Linker	Lawrence	KCRPC
Cheryl Leontant	Topeka	KACSO
JAMES CLARK	TOPEKA	KCPAA
Gene Schind	Topeka	KPMA
Bill Miskell	TOPEKA	KDOC
Paul Shelby	Topeka	OJA
Tom Smith	"	KBS
Don [unclear]	OSAWATOMIE	UTU
Pat Hubbell	Topeka	Kansas Railroad Assoc



STATE OF KANSAS

MIKE HAYDEN, Governor

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Docking State Office Building, Topeka, Kansas 66612-1570

☎ (913) 296-3271

March 23, 1990

Youth Services
Smith/Wilson Bldg.
300 SW Oakley
Topeka, KS 66606

WINSTON BARTON
Secretary

THELMA HUNTER GORDON
Special Assistant

TIM OWENS
General Counsel

ANN ROLLINS
Public Information
Director

Administrative
Services

J. S. DUNCAN
Commissioner

Adult Services
JAN ALLEN
Commissioner

Alcohol and Drug
Abuse Services
ANDREW O'DONOVAN
Commissioner

Income Maintenance/
Medical Services
JOHN ALQUEST
Commissioner

Mental Health/
Retardation Services
AL NEMEC
Commissioner

Rehabilitation
Services
GABE FAIMON
Commissioner

Youth Services
ROBERT BARNUM
Commissioner

The Honorable Wint Winter, Jr., Chair
Senate Judiciary Committee
Statehouse, 120-S
Topeka, KS 66612

Dear Senator Winter:

Attached are responses to the requests for additional information on Senate Bill 742, which you and other members of the Judiciary Committee requested on March 21.

We concur strongly with the sentiment you expressed that a policy decision be made by the Legislature on the issue of jail removal this year.

We are currently out of compliance with the federal Act and have received one year of waiver to receive 1989 funds. In order to receive 1990 funds on a second waiver, we must be able to demonstrate unequivocal commitment to achieving removal, and about the only way that can be done is through legislative action. In order to receive 1991 funds on a third and final waiver, we must be able to show no children in need of care being held in jails for the 12 month period from July 1, 1990 through June 30, 1991.

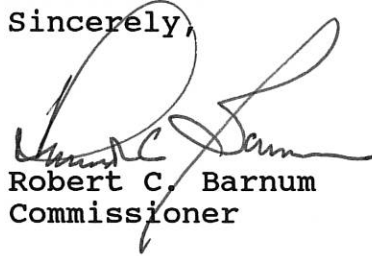
Finally, to be eligible to receive 1992 funds, we must be in 100% compliance and be able to show no juveniles in jail for the 12 month period from July 1, 1991 through June 30, 1992 (subject to the general six hour exception and the rural specific 24 hour exception as covered in the ballooned version of Senate Bill 742).

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Senator Wint Winter, Jr.
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Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Barnum", written over the word "Sincerely,".

Robert C. Barnum
Commissioner

RCB:DOB:nm

Attachments

3-27-90 pmw
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DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Winston Barton, Secretary

Additional Information Requested for the Senate Judiciary
Committee on Senate Bill 742, by Chairman Winter

Consequences of withdrawal from participation in the Juvenile Justice and Delinquency Prevention Act:

1. Loss of \$457,000 in 1990 and similar amounts in future years. (Amounts since 1978 have ranged from \$396,000 to \$735,000).
2. Loss of potential additional discretionary funds available only to participating states. Kansas has received \$250,000 in special jail removal funds over the past two years.
3. Loss of no-cost technical assistance provided to participating states. Wyandotte, Reno, Douglas and Crawford Counties and the State have received technical assistance.
4. Continued liability for the State's communities on the jail issue without having funds or technical assistance to address the issue. Sheriffs, county officials and even judges have been found liable in a number of states for holding juveniles in adult jails and, in some instances, have had to pay damages plus court costs where harm occurred to individual youths. In many other jurisdictions, counties have had to pay costs of actions which resulted in consent decrees. (Attached are copies (1 only) of several court cases, consent decrees and briefs of court actions).
5. In the case of the State, there is some evidence from Hendrickson v Griggs in Iowa that a state may be held accountable if it has not instituted jail removal actions.
6. The OJJDP General Counsel's Office has informally indicated there might be a legal basis on which it could demand the return of all funds awarded since 1980, the year the jail removal mandate was added to the Act. We do not believe the current administration will take such action.
7. If the overwhelming majority of states achieve removal, it is conceivable that a federal law could be passed to compel states to remove juveniles from jail. Senator Arlen Specter annually introduces just such a measure.
8. To gain re-entry to participating status, 100% compliance with the jail removal mandate would be required. (We are currently on a three-year waiver cycle status, which would not be available to a state trying to re-enter).
9. Some of Kansas' allocated funds would be made available to a not-for-profit provider or advocacy group to continue the effort to bring the State into compliance. The effort could include bringing suits to force compliance.

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DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Winston Barton, Secretary

Additional Information Requested for the Senate Judiciary
Committee on Senate Bill 742, by Senator Oleen.

Status of Participation by States in the JJDP Act

The Office of Juvenile Justice and Delinquency Prevention reports to us that of the 57 states and territories, all but four are fully participating. Of the four, Wyoming, North Dakota and South Dakota have not participated in the past, but are currently actively seeking to enter the Act. The fourth, Wisconsin, has been preliminarily found out of compliance by the Office, but negotiations are currently underway to resolve the issues involved.

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DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Winston Barton, Secretary

Additional Information Requested for the Senate Judiciary
Committee on Senate Bill 742

EFFORTS TO PROVIDE ALTERNATIVES TO JAIL

The Advisory Commission on Juvenile Offender Programs utilizing JJDPAs federal formula funds and SRS utilizing special JJDPAs discretionary and state funds have increased the capabilities of local jurisdictions to deal with juveniles without utilizing jails. This effort has emphasized a continuum of care in the form of intake services; the use of non-secure placement ranging from release to parents to attendant care, and as a final measure, detention beds for those juvenile offenders who have committed serious offenses. The following programs are included:

- A. In 1987, the Advisory Commission developed a Plan for Kansas Juvenile Detention Services (1 copy attached). Since then, implementation and further development have occurred.
- B. Intake services to provide law enforcement alternatives to putting a child in jail (Cowley, Crawford, Douglas, Lyon, Finney, Bourbon, Linn, Miami, Riley).
- C. Attendant care facilities currently operational for 18 counties and being developed in 24 additional counties, with others expressing interest.
- D. Developmental work for 80 counties on building regional detention or combination detention/shelter facilities. Full plans including site development, architectural drawings and funding mechanisms are to be completed by August 6, 1990. The planning is to include inter-county agreements.
- E. The first three years operational costs for the Saline County Detention Center, the encouragement of the building of the Reno County detention facility which recently opened, and the Wyandotte detention facility which is expected to open this spring. (The opening of these two facilities should reduce the number of juveniles jailed statewide by 25%).
- F. Reimbursement of partial costs to counties without detention centers if they transport their offenders to another county's detention center.

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DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Winston Barton, Secretary

Additional Information Requested for the Senate Judiciary Committee
on Senate Bill 742, by Chairman Winter

FEDERAL JJDP FORMULA FUND AWARDS
BY THE ADVISORY COMMISSION ON JUVENILE OFFENDER PROGRAMS
JULY 1, 1983 - PRESENT

Formula funds may be used for any improvements to the State's juvenile justice system, except construction. However, states which were not in compliance beginning in 1989 have to award all funds to jail removal projects.

<u>Awardee</u>	<u>Program</u>	<u>Amount</u>	<u>Years</u>
<u>Program Grants</u>			
SRS	Family Support Worker Program Start-Up	\$ 17,700	1
Wyandotte Co	Family Focus	\$ 78,382	1
Labette Co	Youth Crisis Shelter (2 projects)	\$208,797	6
Reno Co	Youth Shelter (2 projects)	\$315,702	6
SRS	Voc Ed Projects - YCAT (4 projects)	\$ 60,076	3
Finney Co	Status Offender Project	\$ 29,171	2
Argentine	Youth Services After Care Proj (JOs)	\$376,250	3
Saline Co	Juvenile Shelter/Detention Center	\$333,184	3
Pittsburg	Residential Center for Youth - Intake	\$ 44,909	1
Central KS Area	Voc Tec School's JO Program	\$ 15,000	1
Wyandotte House	Intake Services/Emergency Beds	\$177,592	3
Kansas Action for Children's	Family Based Training	\$ 10,084	1
Sedgwick Co.	Exploited/Missing Children's Unit	\$101,093	3
Kansas Action for Children-	Payment for JOs in Shelter	\$ 2,000	1
The Shelter-Lawrence	-Intake Services/Emergency Beds	\$117,312	3
Lyon Co	Intake Services/Attendant Care	\$149,301	3
Tri-Agency (Liberal)	Delinquency Prev Project	\$ 47,750	3
Mandt Assoc.	Training for Group Homes & Youth Center		
	Employees on Handling Aggressive Youth	\$ 95,355	2
SRS	Attendant Care Start-Up Funds for 12 counties	\$ 43,559	1
KCSL (Topeka)	Intake Services	\$ 60,843	2
Cowley Co.	Intake Services	\$ 55,031	2
Finney Co.	Intake Services	\$ 70,377	2
Crawford Co.	Intake Services	\$ 61,015	2
SRS	Accreditation - YCAA	\$ 7,425	1
SRS	Accreditation - YCAL	\$ 6,500	1
Dept of Youth Facilities	- Sedgwick Co.	\$ 5,000	1
Mainstream, Inc.	Juvenile Offender Policy Conf.	\$ 39,682	1
Mainstream, Inc.	Statewide Jailor Training	\$ 56,120	2
Sumner Co	Prevention Project	\$ 11,537	1
Central KS CASA	CASAs for JOs	\$ 9,512	1
Riley Co	Intake Services	\$ 33,790	1
6th Jud Dist	Intake Services	\$ 51,534	1

\$2,691,683

Continued Other Side

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<u>Awardee</u>	<u>Program</u>	<u>Amount</u>	<u>Years</u>
<u>Planning Grants</u>			
Pfannenstiel, Inc.	Removal Project Planning	\$ 20,240	2
MCS	County Plan Assistance	\$ 37,537	1
Crawford Co	Detention Center Feasibility and Development	\$ 51,214	2
Westridge Assoc	Regional Detention Center Plan and Development for 65 Counties in West and Central	\$108,254	1
Douglas Co	Detention Planning in Cooperation with Westridge Assoc	<u>\$ 1,500</u>	1
		\$218,745	
Obligations to On-going Projects for Renewal June/Sept 1990		\$148,549	
Administration & State Advisory Group Expenditures		<u>\$266,000</u>	
Grand Total		\$3,325,007	

Fiscal records prior to FY 1983 are unavailable, but in the years between 1978 and 1982, approximately \$3,000,000 were expended for similar purposes.

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ATTENDANT CARE FACT SHEET

The Attendant Care program is based on a model developed in Michigan. Its goal is to provide a short-term alternative to placing a juvenile in jail. A juvenile can be supervised in Attendant Care up to 24 hours, excluding weekends and court holidays.

Concept:

1. Requires a room (120 sq. ft. minimum)
 - public building (preferable)
 - open 24 hrs or near law enforcement
 - can be multi-purpose with priority given to juveniles
 - equipped with a bed or sofa couch
2. Juvenile is constantly supervised by an adult.
 - Attendants must be 19 or older
 - Work eight hour shifts
 - Receive \$6.00 an hour
 - Trained in listening, communication, crisis intervention and deescalation, adolescent development, depression, suicide and substance abuse

Assistance and Funding Available:

- Statewide coordinator available to provide technical assistance
- \$1,500 normal maximum for start-up costs: paint, carpet, furnishings and supplies; (Up to \$2,000 available only under extraordinary circumstances)
- \$6.00 per hour to be paid to trained attendants
- Free training. Participants are reimbursed for mileage and meals; motel is pre-paid

County's Responsibilities:

- Locate an appropriate room
- License the room
- Recruit volunteers
- Have local coordinator
- Provide meals for juveniles and attendants

For more information, contact:

Ruth O'Donnell
Jail Alternatives Coordinator
Smith/Wilson Building
300 SW Oakley
Topeka, KS 66606
913/296-6277

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ATTENDANT CARE COUNTY INVOLVEMENT

Licensed:

Barton
Clay
Cowley
Ellis/Rooks/Trego
Harvey
Lyon/Chase
Neosho
Riley
Russell
Thomas/Cheyenne/Logan/Rawlins/Sheridan/Sherman

Licensing Submitted/or Ready to Submit:

Ellsworth
McPherson
Pawnee/Hodgeman/Pratt/Rush
Seward

Site Selected/or Development Planned:

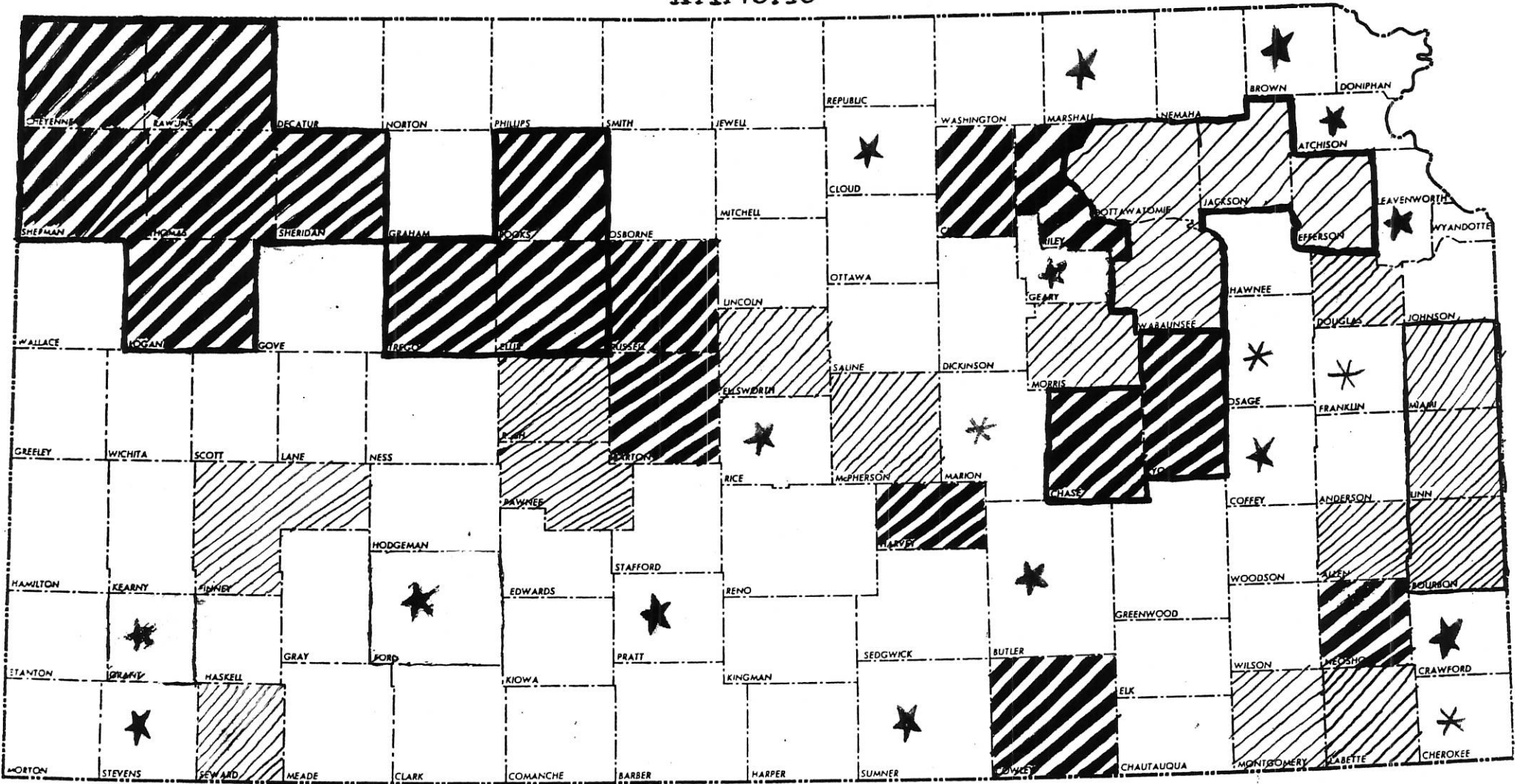
Allen	Montgomery
Bourbon	Morris
Douglas	Miami/Linn
Brown/Doniphan/Nemaha/ Marshall	Finney
Labette	Jackson/Jefferson/Pottawatomie/ Waubunsee

Have Expressed Interest or Know About Program:

Atchison
Leavenworth
Clark
Cloud
Coffey
Grant/Stevens
Wallace

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Attendant Care KANSAS



STATE HIGHWAY COMMISSION OF KANSAS
DEPARTMENT OF PLANNING AND DEVELOPMENT

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- Operational
- Development
- Initial Groundwork

* Targeted

SENATE BILL #742

Committee on Judiciary

Senator Winter

Chairman

Mr. Chairman and members of the Committee. Thank you for the opportunity to testify in support of Senate Bill 742 - jail removal section.

The JJDP Act calls for the end of the practice of placing juveniles in adult jails. At different times in past sessions legislation to comply has been introduced. For various reasons it has not been enacted. Not the least of these reasons has been the lack of alternatives. However, because of the growing risk associated with placing juveniles in jails Judges, Sheriffs, and commissioners have agreed to reduce the use of jails or in some cases have quit using jails altogether.

In the past year Westridge Group has provided consulting services and technical assistance to numerous rural communities. Our experience and perception is that they know there is a need that must be filled. In a recent data survey, whose deadline is April 1, 40 county attorneys who are

1(913) 232-0273

Jayhawk Towers • Box 2513 • Topeka, Kansas 66601

Senate Judiciary Committee
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the first three day responders, all believe a need exists for secure juvenile detention in their counties. All law enforcement agency heads who have responded so far agree as well. This concensus, leads me to suggest to the committee that now is the time to enact this legislation.

There is a growing need and interest by these communities to provided facilities and programs for juvenile offenders and children in need of care. Although, county officials are not exactly elated about the idea of such state requirements there is a consensus that something must be done. The conscious raising is in a large part due to the efforts of the Advisory Commission on Juvenile Offender Programs and the staff of SRS assigned to develop in cooperation with the courts and local governments alternative programs for juveniles.

Many of these communities have attempted to determine what they need in the way of services and have started the process. One such group of communities in Southwest Kansas has formed The Southwest Interagency Coalition and has developed local agreements to deal with other issues. They are ready, at our suggestion, to use this coalition to

develop a regional facility for juveniles. They are ready for technical assistance to make sure what they develop can be used.

In an attempt to insure that resources expended by these communities are geared toward the services that meet the need of their juvenile population SRS and the Westridge Group, through the Advisory Commission, have developed a plan to coordinate the needed demographic study and preliminary planning necessary to accomplish the following:

NEEDS ASSESSMENT:

1. Collecting Juvenile and Attitude of Court, Law Enforcement and District/County Attorney Data
2. Demographic Data Collection
3. Analyzing and Presenting Conclusions on All Data
4. Surveying Existing Community Services
5. Identifying Area of Service Participants
6. Determining Areas of Service

PRELIMINARY PLANNING:

1. Determining Present and Future Bedspace Needs
2. Relaying State Law, Agency Rules and Administrative Regulations
3. Developing Financing Options

4. Securing Commitments with projected service area jurisdictions
5. Doing Site Analysis/Feasibility of Site Selection
6. Surveying Utilities
7. Making Site Selection Recommendation
8. Providing Facility Cost Estimate and Conceptual Site Plan
9. Conducting Public Meetings and Addressing Community Issues
10. Making Recommendations for Programs, Staffing Patterns, and First Year Operating Budget
11. Discussing of Public vs. Private Operations

Each designated region will be brought to the point of action, ready to complete financing and start architectural drawing by the late summer of 1990.

Westridge is presently under contract to Crawford County as a provider for the preliminary planning for a Southeast Kansas regional detention facility. Westridge has completed 80% of the planning and next week will begin to seek inter-local agreements between the 12 counties targeted for this region.

This is a concerted and coordinated effort by SRS and the advisory commission to provide needed guidance and technical

assistance to insure appropriate alternatives are developed and the facilities constructed will meet standards and licensing requirements, as well as the present demand and the need for the future.

To date, these efforts have been warmly welcomed by the communities needing the services. Contacts have been made in each of three distinct Kansas regions and all have assured us of their cooperation.

Mr. Chairman, members of the committee. I urge you to consider these efforts in you deliberation on Senate Bill 742 and recommend passage of this legislation.

Richard A. Mills
President
Westridge Group of Associates, Inc.

The Westridge Group

of Associates, Inc.

Business,
Economic &
Non-Profit
Development

March 23, 1990

Senator Wint Winter
Chairman Senate Judiciary Committee
State Capitol
Topeka, KS 66601

Dear Wint:


Just a note along with copies of testimony to replace the copies I gave Judy Casper earlier.

First, I would like to thank you for the opportunity to be heard on this legislation. However, I will be in Washington D.C. when the next Judiciary Committee hearing is scheduled. Therefore, I wanted to make a few additions to the written testimony.

Senator, disregarding the Federal funds involved that could be lost, I know you are aware that this State needs to take the step necessary to remove juveniles from placement in jails. Along with rights to action's, due process, and a horde of other reasons, Kansas has few if any rural or metropolitan jails that come any where close to meeting the constitutional standards. Most rural jails are without trained jail staff and can not provide 24 hour service or for that matter provide even the minimal amount of supervision for adult pre-trial detainees, how can they be expected to house juveniles under these conditions?

We can no longer ignore or put off passing this legislation for administrative proective and penological advantages of placing them there. I believe we must demonstrate the will and courage to move on this issue and provide safe and constitutional facilities for Kansas youth.

My Best,



Richard A. Mills
President