

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

4:00 ~~xxx~~/p.m. on April 25, 1990 in room 514-S of the Capitol.

All members were present except: Senators Feleciano and Gaines 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:

Representative Mike O'Neal
Sister Therese Bangert, Kansas Council on Crime and Delinquency
Edwin Van Petter, Deputy Attorney General
James Clark, Kansas County and District Attorneys Association
Bill Miskell, Kansas Department of Corrections
Robert Barnum, Kansas Department of Social and Rehabilitation Services
Jeffrey Moots, American Civil Liberties Union on Kansas
Doug Bowman, Children and Youth Advisory Committee

Senator Bond moved to approve the minutes of February 22 (a.m.) and (p.m.), February 23, February 26 (a.m.) and (p.m.), February 27 (a.m.) and (p.m.), March 1 (a.m.) and (p.m.). Senator Rock seconded the motion. The motion carried.

The Chairman opened the hearings for the juvenile offender measures remaining in the committee.

- HB 2666 - concerning juveniles; relating to juvenile felons and juvenile offenders; relating to prosecutino as an adult; notice to victims of release or discharge of certain juvenile offenders; defining juvenile felons; allowing the secretary of corrections to place a juvenile felon in the youth center at Topeka or the youth center at Beloit.
- SB 521 - concerning juveniles; creating master planning commission for juvenile affairs.
- SB 526 - concerning juvenile offenders; relating to prosecution as an adult; notice to victims of release or discharge of certain juvenile offenders.
- SB 671 - concerning payment of the cost of transportation of alleged juvenile offenders to and from hearings.
- SB 741 - concerning juvenile offenders; relating to their release at the age of 21; providing for a hearing to allow the department of social and rehabilitation services to retain custody.
- SB 743 - concerning corrections; comprehensive plans for correctional services and corrections advisory boards including juvenile offenders advisory boards.

Mike Heim, Legislative Research Department, explained HB 2666 and reviewed the Senate Bills for the committee.

Representative Mike O'Neal explained the actions of the House Judiciary Committee when addressing HB 2666. He stated that the intent was to address the concerns about making the measure mandatory and the concerns on treatment of the individual youths.

Sister Therese Bangert, Kansas Council on Crime and Delinquency, testified in opposition of HB 2666 and SB 526, also in support of SB 521. (ATTACHMENT I) She also distributed to each committee member a copy of Recommendations of the Juvenile Offender Policy Conference prepared for the Advisory Commission on Juvenile Offender Programs, Kansas Department of Social and Rehabilitation Services.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

room 514-S, Statehouse, at 4:00 ~~xxx~~/p.m. on April 25, 1990.

Edwin Van Petten, Deputy Attorney General, testified in support of HB 2666, SB 521, SB 526, and SB 741. (ATTACHMENT II)

James Clark, Kansas County and District Attorneys Association, testified in support of HB 2666 and SB 521. (ATTACHMENT III and IV)

Bill Miskell, Kansas Department of Corrections, testified on behalf of the department and the Criminal Justice Coordinating Council in support of HB 2666 and SB 526. (ATTACHMENT V) He also presented testimony in support of SB 521. (ATTACHMENT VI)

Robert Barnum, Kansas Department of Social and Rehabilitation Services, Youth Services Commissioner, testified in support of HB 2666 with one modification. He requested the committee amend HB 2666 on page 12, line 34 by deleting "immediately" and inserting instead "at a time designated by SRS." Mr. Barnum also testified in support of SB 526, SB 741 and SB 743. (ATTACHMENTS VII through X)

Written testimony was distributed from Ann Hebberger, League of Women Voters of Kansas, supporting HB 743, opposing HB 2666 and SB 526, and suggesting interim studies on the balance of the bills being heard. (ATTACHMENT XI)

Jeffrey Moots, American Civil Liberties Union of Kansas, testified in opposition to HB 2666 and SB 526. (ATTACHMENT XII)

James Clark requested adoption of a technical amendment to HB 2666 on page 12, lines 40 and 41 that "or county" be inserted after "of the state." He referred to lines 15 and 16 of this section as foundation for his request.

Senator Bond moved to adopt the amendment to HB 2666 as requested by Mr. Clark. Senator Parrish seconded the motion. The motion carried.

Doug Bowman, Children and Youth Advisory Committee, testified regarding SB 521, he requested an interim study on the measure. (ATTACHMENT XIII)

Written testimony was distributed to the committee from Roger Werholtz, Deputy Secretary of Corrections, Community and Field Services Division, in support of SB 743. (ATTACHMENT XIV)

Written testimony in support of SB 743 from Cynthia Kelly, Kansas Association of School Boards, was distributed to the committee. (ATTACHMENT XV)

Written testimony from Robert Hannigan, Kansas Correctional Association, supporting SB 521 was distributed to the committee. (ATTACHMENT XVI)

This concluded the hearings on the juvenile offender measures.

Senator Morris moved to amend HB 2666 as requested by SRS on page 12, line 34 to delete "immediately" and insert "at a time designated by SRS." Senator Bond seconded the motion. The motion carried.

Senator Bond moved to recommend HB 2666 favorable for passage as amended. Senator Parrish seconded the motion.

Committee discussion followed on whether portions or all of the other juvenile offender measures should be amended into HB 2666. A memorandum from the Kansas Legislative Research Department was distributed to the committee with possible suggestions for amendments. (ATTACHMENT XVII) It was noted that the April 2, 1990 memorandum referred to H.B. 3041 and on this date, April 25, 1990, should be revised to read HB 2666.

Senator Bond made a substitute motion to amend HB 2666 as per item 3 of the attached memorandum, limited to A and B felonies only; also to include a severability clause. Senator Kerr seconded the motion. The motion carried.

Senator Kerr moved to recommend HB 2666 favorable for passage as amended and to recommend the remainder of the juvenile offender measures for interim study. Senator Oleen seconded the motion. The motion carried.

The meeting was adjourned.



KANSAS COUNCIL ON CRIME AND DELINQUENCY

ADVISOR: Karl Menninger, M.D.

BOARD OF DIRECTORS

Donald W. Anderson, Ph.D.

President
1501 E. 5th
Winfield, KS 67156
(316) 221-4727 Home
(316) 221-4150 Office
*Professor of Psychology
Southwestern College*

Frank McCoy
Vice President/
President Elect
*Director, Riley County
Community Corrections*

Therese Bangert, SCL
Secretary
*Catholic Chaplain,
SRDC and Topeka
Pre-Release Center*

Eugene Rasmussen
Treasurer
United Methodist Pastor

Rosalys Rieger
Newsletter Editor
*Board member, Riley County
Community Corrections*

Robert J. Achor
*Forensic Social Worker,
State Security Hospital,
Larned*

Bill Arnold
*Associate Professor of
Sociology, Kansas University*

Edwana Collins
Corrections Volunteer, Topeka

Diane Dollar
*Professor of Art,
Kansas State University*

Becky Matin-Johns
*President/Project Director,
Kansas City Outside Connection*

George A. McCall
*Pastor, First Presbyterian Church,
Wichita*

Connie McWilliams
*Sociology Student,
Fort Hays State University*

Richard Ney
*Sedgwick County
Public Defender*

Barbara Schmidt
*Director, Victim Offender
Mediation Services, Wichita*

Anna Warnken
*Quaker Prison Ministry,
Emporia*

Testimony to Senate Judiciary
HB 2666, SB 521, SB 526, SB 741

Last September Kansans from all over our state and professionals from all different parts of the juvenile system attended a Juvenile Offender Policy Conference here in Topeka. Senators Parrish and Bond from this committee were part of that meeting. I'd like to express my concerns in light of some of the recommendations of that conference.

HB 2666 and SB 526 - No where through the whole manual can I find such a recommendation. In fact, it seems to go contrary to a primary goal that is stated throughout concerning the juvenile court system:

The overall goal is to maintain the rehabilitation emphasis of the juvenile court and resist efforts to change the juvenile court's emphasis to punishment . . .
(p. 59)

There is a further recommendation that a youth center be classified as suitable for ABC felons with jurisdiction to age 25 and a requirement that each juvenile confined at the youth center receive an annual review. (p. 60)

Page 56 has a recommendation for a 40 bed unit to be established to accomodate juveniles who resist services or who cannot be served by current services.

I have grave concerns about juveniles being placed in the prison system and I feel it is a clear violation of the repeated goal that "Services to juveniles should be safe psychologically and physically for provider and juvenile."
(P. 56)

Currently David O'Brien's office in SRS is working on a report for the federal government regarding the Disproportionate Incarceration of Minority Youths in Kansas. That report's preliminary findings show that a child at risk in the Black Community has a four times greater chance of being locked up in Kansas. The age group for that statistic is 13-17.

SB 521 - I find this commission in the recommendations of the conference (p. 56). I concur. I ask you to consider that adequate representation from minority communities be on this commission and that the funding be similar to the Kansas Sentencing Commission.

WE MUST FIND METHODS TO PREVENT, INTERVENE AND TREAT THE HIGH RISK JUVENILE OFFENDER SO THAT THEY CAN BECOME HEALTHY, SUCCESSFUL, AND PRODUCTIVE CITIZENS. (Mike Hayden's statement to participants of the Juvenile Offender Policy Conference.)

Sister Therese Bangert

*Senate Judiciary Committee 4-25-90
Attachment I page 1 of 1*



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

TESTIMONY OF
DEPUTY ATTORNEY GENERAL ED VANPETTEN
ON BEHALF OF ATTORNEY GENERAL ROBERT T. STEPHAN
TO THE SENATE JUDICIARY COMMITTEE

RE: SUPPORT OF HOUSE BILL 2666 AND SENATE BILLS 521, 526, AND 741

April 25, 1990

Mr. Chairman and Members of the Committee:

House Bill 2666 rightfully provides for the ~~automatic~~ prosecution as an adult of any person 16 years of age or over who is charged with a class A or B felony; it provides that a court may authorize prosecution as an adult of a 14 or 15 year old who commits class A or B felonies.

This bill is a measured reaction to atrocities committed by juveniles. Other states have lowered the juvenile age altogether. States with a lower juvenile age than Kansas include:

Connecticut	Up to 16 years
Georgia	Up to 17 years
Illinois	Up to 17 years
Louisiana	Up to 17 years
Massachusetts	Up to 17 years
Missouri	Up to 17 years
New York	Up to 16 years
North Carolina	Up to 16 years
Oklahoma	Up to 16 years (males)
South Carolina	Up to 17 years
Texas	Up to 17 years
Vermont	Up to 16 years

Senate Judiciary Committee
4-25-90
Attachment II
page 1 of 2

It is appropriate that you understand specifically those crimes for which this bill would mandate and authorize trial as an adult. Class A and B felonies include:

Class A

21-3401 Murder in the first degree
21-3421 Aggravated kidnapping
21-3433 Aircraft piracy
21-3801 Treason
65-4127a Possession and distribution of opiates, opium or narcotic drugs; third and all subsequent convictions

Class B

21-3402 Murder in the second degree
21-3502 Rape
21-3420 Kidnapping
21-3427 Aggravated robbery
21-3504 Aggravated indecent liberties with a child
21-3506 Aggravated criminal sodomy
21-3415 Aggravated battery against a law enforcement officer
21-3719 Aggravated arson
65-4127a Possession and distribution of opiates, opium or narcotic drugs; second conviction
21-3301 Attempt of class A felony

House Bill 2666 also provides for notification of the victim or the victims family on release of a juvenile whose offense would have constituted an A, B or C felony. The fact that an individual is in the juvenile system should not mean that those against whom their offense was directed should not be aware of their release. Victims and families of victims deserve this consideration from the state.

This bill has been endorsed by the Criminal Justice Coordinating Council. Attorney General Stephan supports and urges the passage of House Bill 2666.

Attorney General Stephan is also on record of support of Senate Bills 521, 526, and 741. It is our hope that you pass these bills today so that they can become law this session.

4-25-90
II 2/2

OFFICERS

Terry Gross, President
Rodney Symmonds, Vice-President
Gene Porter, Sec. Treasurer
James Puntch, Jr., Past President



DIRECTORS

James Flory
Randy Hendershot
Wade Dixon
John Gillett

Kansas County & District Attorneys Association

827 S. Topeka Ave., 2nd Floor • Topeka, Kansas 66612
(913) 357-6351 • FAX # (913) 357-6352
EXECUTIVE DIRECTOR • JAMES W. CLARK, CAE

Testimony in Support

of

House Bill 2666

The Kansas County and District Attorneys Association appears in support of House Bill 2666, which lowers the age that a juvenile charged with an A or B felony may be treated as an adult criminal; and provides a victim notification system for victims of juvenile crime. In addition, the bill requires placement of such offenders at the Youth Center at Topeka or Beloit until age 16, then removes them to adult institutions to serve the balance of their sentence.

We support the bill for several reasons: 1). That there are a number of juveniles under the age of 16 that commit violent offenses who are simply not amenable to the juvenile system, particularly when release from the system is mandated at age 21, and when in fact, release may come much earlier after SRS determines that they have completed their rehabilitation program; 2) That the benefits of victim notification (which the Legislature so determined last year) should also be extended to victims of crimes committed by juveniles, as they are no less harmed and no less worthy of such benefits than victims of crimes committed by adults; and 3) That some of the danger and expense resulting from the prohibition of jailing of juveniles may be alleviated by declaring some dangerous juveniles to be adults, hence removing them from coverage of the federal mandates.

While KCDAA is supportive of any legislation with the general provisions previously discussed, there are some specific provisions in HB 2666 worth mentioning. First, the placement of juvenile felons at the Youth Center until age 16 removes the threat of additional overcrowding of our adult penal system, while at the same time places the offender in an institutional system where they are less likely to become victimized (in fact, depending on space, perhaps other youthful inmates may also be confined at a Youth Center until they reach 18 or even 21). Second, some 14 and 15 year old juveniles are amenable to the juvenile system, even if they have committed a serious offense: HB 2666 requires a decision by the prosecutor and a determination by a judge, before these offenders may be treated as adult offenders.

Senate Judiciary Committee
4-25-90
Attachment III
page 1 of 1

OFFICERS

Terry Gross, President
Rodney Symmonds, Vice-President
Gene Porter, Sec.-Treasurer
James Puntch, Jr., Past President



DIRECTORS

James Flory
Randy Hendershot
Wade Dixon
John Gillett

Kansas County & District Attorneys Association

827 S. Topeka Ave., 2nd Floor • Topeka, Kansas 66612
(913) 357-6351 • FAX # (913) 357-6352
EXECUTIVE DIRECTOR • JAMES W. CLARK, CAE

Testimony in Support

of

Senate Bill 521

The Kansas County and District Attorneys Association supports the concept of Senate Bill 521. The bill attempts to coordinate the various agencies that deal with children at risk, and removes that coordination function from SRS. This remedy is consistent with opinions by those that deal with juvenile cases on a day-to-day basis, and is a step toward the creation of a separate Youth Authority, which was specifically recommended by the Juvenile Offender Policy Conference.

The at-risk youth of today is treated by a number of separate, often conflicting, systems. Coordination among such a diversity of systems is a difficult task in itself, and in Kansas, coordination is made even more difficult by the fact that the primary coordinator, SRS, has so many different functions other than youth that coordination even within itself appears an insurmountable problem. A separate agency that focuses just on youth, and one that is independent of the Governor's Office, appears best able to deal with the proportionally large number of youth at risk in our society. SB 521 provides for removal from SRS of the planning function, and attempts to provide the necessary coordination of agencies that deal with at-risk youth.

The bill is difficult to follow, appearing that there is a duplication of membership and function between the master planning commission subcommittees (Section 1.d) and the advisory commission on juvenile offender programs (Section 2) and the children and youth advisory committee (Section 4). There is also a lack of law enforcement and prosecution input in the master planning commission itself.

Senate Judiciary Committee
4-25-90
Attachment IV

page 1 of 1



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

Landon State Office Building
900 S.W. Jackson—Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Mike Hayden
Governor

Steven J. Davies, Ph.D.
Secretary

April 25, 1990

TESTIMONY

HOUSE BILL 2666

Concerning juveniles; relating to juvenile felons and juvenile offenders.

House Bill 2666 (and companion Senate Bill 526) were introduced at the request of the Criminal Justice Coordinating Council (CJCC).* The CJCC held several hearings during the fall and winter of 1989 regarding improvements which could be made in the juvenile system. HB 2666 and SB 526 were developed in response to problems with juvenile offenders who commit violent criminal acts, but must, under current law, be released by their 21st birthday.

At the present time, HB 2666 as approved by the House Committee of the Whole, contains the following major provisions relevant to the Kansas Department of Corrections:

- * Allows the court to order those who are 14 and 15 years old to stand trial as an adult if charged with an A or B felony.
- * Classifies those who are 14 or 15 years old and convicted of an A or B felony as a "juvenile felon" and places that person in the custody of the secretary of corrections.
- * Provides that the Secretary of Corrections shall have the authority to order the placement of a juvenile felon in the youth center at Topeka or the youth center at Beloit. Such juvenile felon shall be allowed to be in the youth center at Topeka or the youth center at Beloit only until such juvenile felon reaches the age of 21 years.
- * Provides that no person under the age of 16 years sentenced to the custody of the Secretary of Corrections shall be placed in the Kansas State Penitentiary or the Kansas State Industrial Reformatory.

The Criminal Justice Coordinating Council supports the concepts included in H.B. 2666. Secretary Davies supports the minor amendment recommended by SRS in New Sec. [9] Line 35 (...to convey such offender to the youth center at Topeka or the youth center at Beloit at a date and time agreeable to the youth center.) and the other provisions of HB 2666 as currently amended.

-1-

(over)

Senate Judiciary Committee
4-25-90
Attachment V page 1 of 2

*The CJCC is chaired by Corrections Secretary Steven J. Davies. Members include the Chief Justice of the Kansas Supreme Court Robert Miller, Attorney General Robert Stephan, SRS Secretary Winston Barton, District Judge Richard Walker, the Chairman of the Kansas Parole Board Frank Henderson, Jr., the Governor's Chief Counsel Scott Morgan, Representative Bill Wisdom, Representative Michael O'Neal, Senator Dave Kerr, Senator Frank Gaines.

4-25-90
V 2/2



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

Landon State Office Building
900 S.W. Jackson—Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Mike Hayden
Governor

Steven J. Davies, Ph.D.
Secretary

April 25, 1990

TESTIMONY

SENATE BILL 521

Creating a Master Planning Commission for Juvenile Affairs

Senate Bill 521 was introduced at the request of the Criminal Justice Coordinating Council (CJCC).* The CJCC held several hearings during the fall and winter of 1989 regarding improvements which could be made to the juvenile system, ranging from children "at risk" to juvenile offenders. Development of the concept contained in S.B. 521 was endorsed by all child advocacy groups which appeared before the CJCC as a means of better utilizing existing public and private resources to provide a more coordinated approach for dealing with a full range of juvenile issues.

Major provisions of S.B. 521 would:

- * Create a Master Planning Commission with membership including cabinet members, Governor's attorney, judges, legislators and public representatives.
- * Move the reporting authority for the Advisory Commission on Juvenile Offender Programs from SRS to the Master Planning Commission.
- * Increase the membership of the Advisory Commission on Juvenile Offender Programs to include Court Services Officers, drug rehabilitations specialists, and representatives from business and labor.
- * Transfer existing staff for Advisory Commission on Juvenile Offender Programs from SRS to Master Planning Commission.
- * Develop a longitudinal data base on juveniles determined to be at risk by educators, SRS or the Courts.
- * Move the reporting authority for the Advisory Committee on Children and Youth from SRS to the Master Planning Commission.

-1-
(over)

Senate Judiciary Committee
4-25-90
Attachment VI
page 1 of 2

- * Increase the membership of the Advisory Committee on Children and Youth to include mental health professionals, drug rehabilitation specialists, teachers and school administrators, a psychologist, a registered nurse, clergy, and representatives of business and labor.
- * Transfer existing staff for Advisory Commission on Children and Youth from SRS to Master Planning Commission.
- * Increase communication between public and private agencies regarding children at risk.

The major objectives of S.B. 521 are:

- * To increase inter-agency coordination of programs and policies affecting provisions of education, health care, social services, and job training for juveniles.
- * To reduce the possible duplication of efforts and the redundancy of programs and paperwork.
- * To review statutes, agency rules and regulations for conflicts, effectiveness and appropriateness.
- * To review existing public and private resources committed to juveniles.

The Criminal Justice Coordinating Council strongly supports development of a Master Planning Commission on Juvenile Affairs.

* The CJCC is chaired by Corrections Secretary Steven J. Davies. Members include the Chief Justice of the Kansas Supreme Court Robert Miller, Attorney General Robert Stephan, SRS Secretary Winston Barton, District Judge Richard Walker, the Chairman of the Kansas Parole Board Frank Henderson, Jr., the Governor's Chief Counsel Scott Morgan, Representative Bill Wisdom, Representative Michael O'Neal, Senator Dave Kerr, and Senator Frank Gaines.

4-25-90
VI 7/2

Overview for
Senate Judiciary Committee
Hearing on Juvenile Matters
April 25, 1990

- SB 521 Neutral because of the Fiscal considerations this budget year.
- SB 526 HB 2666 as amended by the House is desirable because it allows discretion for the Judge to make these important decisions based on a hearing of the facts and circumstances. Testimony on SB 526 was presented earlier.
- SB 741 H.B. 2666 as amended by the House provides the preferred resolution to extend sanctions because facility populations are maintained age appropriate and there is flexibility for the executive agencies to respond to these youth on an individual basis. We therefore recommend HB 2666 as the preferred version of this legislative initiative.
- SB 743 We support the concept of Community based services for Juvenile Offenders. Community Corrections boards addressing Juvenile issues is desirable. Concerns about this bill are the lack of funding and the Secretary of SRS is not in the grant review cycle. This bill continues the Secretary of Corrections as the Community Corrections authority for Juvenile matters.
- HB 2666 We support the concept of the increased sanctions for young offenders who commit the most serious offenses. We also support the concept of victim notification. This Bill provides a good mechanism to address these issues. One modification is requested to allow the Youth Centers to schedule admissions. (At page 12, New Sec. (9), line 34, change immediately to "At a time designated by SRS.")

Senate Judiciary Committee
4-25-90
Attachment VII
page 1 of 1

Department of Social and Rehabilitation Services

Testimony before

House Judiciary Committee

Regarding

House Bill 2666

April 25, 1990

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

Senate Judiciary Committee
4-25-90
Attachment VIII
page 1 of 7

Department of Social And Rehabilitation Services

Winston Barton, Secretary

Testimony in Support of H.B. 2666

AN ACT CONCERNING JUVENILES;
RELATING TO JUVENILE FELONS AND JUVENILE OFFENDERS;
RELATING TO PROSECUTION AS AN ADULT;
NOTICE TO VICTIMS OF RELEASE OR DISCHARGE OF CERTAIN JUVENILE OFFENDERS
DEFINING JUVENILE FELONS; ALLOWING THE SECRETARY OF CORRECTIONS TO
PLACE A JUVENILE FELON IN THE YOUTH CENTER AT TOPEKA OR
THE YOUTH CENTER AT BELOIT.

(Mr. Chairman), Members of the Committee, I appear today in support of House Bill 2666.

House Bill 2666 addresses the issue of increased sanctions for younger offenders who commit the most serious offenses and for victim notification prior to the discharge of Juvenile Offender from the youth centers where they were placed on the basis of an A,B, or C felony type offense.

The question of increased sanctions for younger offenders was addressed by reducing the age to 14 for certification of youth to adult prosecution when they are alleged to have committed an A or B felony. This allows the Judge to make a case by case basis determination on waiver for adult prosecution. This method is consistent with the way other alleged juvenile offenders are treated.

For these 14 and 15 year old youth who are certified for adult prosecution and convicted of the A or B felony crime; a new class of offenders is defined.

4-25-90
* VIII 2/7

These youth would be known as Juvenile Felons. The Court would be required to commit these Juvenile Felons to the Secretary of Corrections and permitted to impose the applicable fine.

The Secretary of Corrections is allowed to place Juvenile Felons in the Youth Center at Topeka or the Youth Center at Beloit until they reach age 21. The minimum age for placement at KSIR and KSP is set at 16 years of age. Consequently, between the age of 16 and 21 the Secretary of Corrections has placement discretion to determine whether the Juvenile Felon will be in a youth facility or an adult facility. A mechanism is provided for the transfer from the Juvenile to the Adult System.

Victim Notifications Procedures are added to the Juvenile Offender Code. Youth Centers are required to provide 45 days Notice of the discharge of A,B, or C felony type offenders to the County or District Attorney who in tern has responsibility to provide written Notice to the Victim. Failure to provide these notices will not delay action nor is it cause for legal action against the State, County or its employees.

Discussion: This bill addresses a small number of youth. The Youth Centers admitted a total of fourteen (14) A & B felony type offenders in FY 88 and thirteen (13) in FY 89. Attached to this testimony is a listing of all admissions to the youth centers in FY 88 and FY 89 by Specific Offenses. By far the most frequent offense in the A & B felony category is Aggravated Robbery. The Youth Center at Topeka and Beloit are the appropriate place to provide

Custody Services to youth this age. We believe we are in a position to provide these services. It seems a substantial burden to ask the adult institutions to provide age appropriate services and protection of Juvenile Felons when a youth attains a certain age or by agreement between the two departments transfer to the adult system may be accomplished.

The Second issue addressed in this bill is Victim Notification. We are prepared to provide 45 days notice to County or District Attorneys in support of Victim Notification.

We support the state addressing the need to provide different consequences for younger offenders who commit the most serious violent offenses. This bill addresses the problem in a way that allows discretion for the Judge and flexibility for the executive agencies.

Action Requested: The attached Balloon would give the Youth Center participation in the decision of when the admission would take place. This change is requested to allow us to provide an orderly service and to be consistent with our practice of scheduling admissions.

Winston Barton, Secretary
Department of Social and
Rehabilitation Services
(913) 296-3217

Attach Balloon

4-25-90
VIII 4/7

YOUTH CENTER COMMITTING OFFENSES

OFFENSES	FY 1988					FY 1989				
	YCA	YCB	YCL	YCT	TOT.	YCA	YCB	YCL	YCT	TOT.
<u>A FELONIES</u>										
AGGRAVATED KIDNAPPING	0	0	0	2	2	0	0	0	1	1
FIRST DEGREE MURDER	0	0	0	4	4	0	0	0	0	0
TOTAL A FELONIES					6					1
<u>B FELONIES</u>										
AGGRAVATED ARSON	0	0	0	0	0	0	0	0	1	1
AGGRAV. CRIMINAL SODOM	1	0	0	0	1	0	0	0	1	1
AGGRAVATED ROBBERY	2	0	1	3	6	1	0	1	7	9
KIDNAPPING	0	0	0	0	0	0	0	0	1	1
RAPE	0	0	1	0	1	0	0	0	0	0
TOTAL B FELONIES					8					12
<u>C FELONIES</u>										
AGGRAVATED BATTERY	2	2	2	8	14	1	2	0	15	18
AGGRAVATED BURGLARY	1	0	1	1	3	0	0	1	4	5
ARSON	1	0	1	2	4	3	0	0	2	5
ATTEMPTED AGGR. ROBBER	1	1	0	0	2	0	0	0	0	0
ATTEMPTED RAPE	0	0	0	1	1	1	0	0	0	1
CONSPIR. TO COMM. AN A F	0	0	0	1	1	0	0	0	0	0
IND. LIBERTIES W/ A CHILD	6	2	1	7	16	5	1	1	12	19
POSS. COCAINE W/INT TO SE	0	0	0	1	1	2	2	1	8	13
ROBBERY	2	0	1	3	6	3	0	0	6	9
TOTAL C FELONIES					48					70
<u>D FELONIES</u>										
AGGRAVATED ASSAULT	3	3	0	3	9	0	2	0	2	4
AGGRAVATED INCEST	0	0	0	0	0	0	0	0	2	2
AGGRAVATED SEXUAL BATT	3	2	1	0	6	3	0	0	1	4
ATTEMPTED AGGR. BURGLA	0	0	0	1	1	0	0	0	0	0
ATTEMPTED IND. LIB. W/CHIL	0	0	0	0	0	0	0	1	0	1
ATTEMPTED ROBBERY	1	0	0	0	1	0	0	0	0	0
BURGLARY	21	4	19	61	105	21	1	15	55	92
FORGERY	0	4	0	5	9	5	5	4	1	15
TOTAL D FELONIES					131					118
<u>E FELONIES</u>										
AGGR. ESCAPE FR. CUSTOD	0	0	0	0	0	0	0	0	1	1
ATTEMPTED BURGLARY	1	0	0	1	2	0	0	0	2	2
CONSPIR. TO COMM. FELON	4	0	0	1	5	1	1	0	0	2
CRIMINAL DAM. TO PROPER	3	1	4	4	12	1	3	2	5	11
INCEST	0	0	0	2	2	0	0	0	0	0
TERRORISTIC THREAT	1	1	1	3	6	0	0	1	1	2
THEFT	19	11	14	34	78	17	7	9	41	74
UNLW. USE OF FIN. CARD	0	1	0	0	1	0	0	0	0	0
TOTAL E FELONIES					106					92
<u>TOTAL FELONIES</u>					299					293

4-25-90
VIII 5/7

YOUTH CENTER COMMITTING OFFENSES

OFFENSES	FY 1988					FY 1989				
	YCA	YCB	YCL	YCT	TOT.	YCA	YCB	YCL	YCT	TOT.
<u>A MISDEMEANORS</u>										
ASSLT.ON LAW ENF.OFFICE	3	0	0	4	7	0	1	0	2	3
CRIMINAL DAM.TO PROPER	4	1	3	5	13	10	3	5	7	25
ESCAPE FROM CUSTODY	0	0	0	2	2	0	0	0	1	1
FALSELY REPORTING A CRI	0	0	0	0	0	0	1	0	0	1
HARRASSMENT BY TELEPH	0	0	0	0	0	0	1	0	0	1
OBSTRUCTING LEGAL PROC	1	7	0	0	8	0	0	0	2	2
POSS.OF DRUGS/PARAPH.	1	2	0	4	7	0	0	0	5	5
POSS.OF STOLEN PROPERT	0	0	0	0	0	1	0	0	6	7
SEXUAL BATTERY	0	0	0	0	0	1	0	0	1	2
THEFT	20	19	8	28	75	18	20	14	37	89
THEFT BY DECEPTION	1	0	0	0	1	0	0	0	0	0
UNLW.DEPR. OF PROPERTY	1	2	3	6	12	5	2	2	2	11
VEHICULAR HOMICIDE	0	0	0	1	1	0	0	0	0	0
TOTAL A MISDEMEANORS					126					147
<u>B MISDEMEANORS</u>										
BATTERY	6	10	1	22	39	8	11	1	14	34
CRIMINAL TRESSPASSING	0	3	3	3	9	1	2	2	6	11
CRUELTY TO ANIMALS	1	0	0	1	2	0	0	0	0	0
LEWD & LASCIVIOUS BEH.	0	0	0	1	1	0	0	0	2	2
PROSTITUTION	0	3	0	0	3	0	3	0	0	3
UNLW./POSS.USE OF FIREA	0	0	0	0	0	1	1	1	2	5
TOTAL B MISDEMEANORS					54					55
<u>C MISDEMEANORS</u>										
ASSAULT	4	3	0	2	9	1	2	2	3	8
DISORDERLY CONDUCT	3	4	0	4	11	4	2	0	1	7
TOTAL B MISDEMEANORS					20					15
<u>UNCLASSIF. MISDEMEANOR</u>	0	1	3	2	6	1	0	2	3	6
<u>TOTAL MISDEMEANORS</u>					206					223
<u>CONDITIONAL REL.REVOC.</u>	11	10	4	19	44	7	13	5	21	46
<u>TOTAL ADMISSIONS</u>					549					562

4-25-90
VIII 6/7

1 offender's trial and conviction as prepared by the clerk of the
2 district court in accordance with K.S.A. 75-5218 and amendments
3 thereto.

4 (d) *If the offender in the custody of the secretary is a juvenile*
5 *felon, as defined in section 9 [10], such juvenile felon shall not be*
6 *transferred to the state reception and diagnostic center until such*
7 *time as such juvenile felon is to be transferred from the youth center*
8 *at Topeka to a department of corrections institution or facility.*

9 Sec. 7-[8]. K.S.A. 75-5229 is hereby amended to read as follows:
10 75-5229. (a) Every woman sentenced to imprisonment for a felony
11 shall be sentenced to the custody of the secretary of corrections.

12 (b) Every woman sentenced to the custody of the secretary of
13 corrections shall be given a scientific examination and study and
14 shall have a rehabilitation program planned and recommended for
15 her, which examination, study and program shall be substantially
16 equal to that required for male felons at the state reception and
17 diagnostic center as provided in K.S.A. 75-5262 and amendments
18 thereto. At the direction of and in accordance with procedures
19 prescribed by the secretary, the examination shall be given, the
20 study shall be made and the rehabilitation program shall be pre-
21 pared at the Kansas correctional institution at Lansing or at another
22 appropriate state institution, other than a correctional institution,
23 in the manner prescribed in K.S.A. 75-5209 and amendments
24 thereto, or at a local governmental or private facility which has
25 been approved by the secretary for these purposes. *If the woman*
26 *in the custody of the secretary is a juvenile felon, as defined in*
27 *section 9 [10], such juvenile felon shall not be given a scientific*
28 *examination and study until such time as such juvenile felon is to*
29 *be transferred from the youth center at Beloit to a department of*
30 *corrections institution or facility.*

31 New Sec. 8-[9]. When a juvenile felon has been placed in the
32 custody of the secretary of the department of corrections, the [sec-
33 retary shall notify the sheriff having such juvenile felon in custody
34 to convey such offender ~~to the youth center at Topeka~~
35 ~~or the youth center at Beloit.~~ The] secretary shall notify the court
36 in writing of the initial placement of the juvenile felon in the youth
37 center at Topeka or the youth center at Beloit as soon as the
38 placement has been accomplished. The secretary shall not permit
39 the juvenile felon to remain detained in any jail for more than 72
40 hours, excluding Saturdays, Sundays and legal holidays, after the
41 secretary has received the written order of the court placing the
42 juvenile felon in the custody of the secretary, except that, if that
43 placement cannot be accomplished, the juvenile felon may remain

at a time designated by the youth center.

1 in jail for an additional period of time, not exceeding 10 days,
2 which is specified by the secretary and approved by the court.
3 ~~During the time a juvenile felon remains in the custody of the~~
4 ~~secretary until the juvenile becomes 18 years of age, the secretary~~
5 ~~shall report to the court at least each six months as to the current~~
6 ~~living arrangement and social and mental development of the ju-~~
7 ~~venile felon. Such report shall be confidential and shall only be~~
8 ~~reviewed by the court and the juvenile's attorney.~~

9 New Sec. 9-[10]. As used in this act, the term "juvenile felon"
10 means those persons who are 14 or 15 years of age at the time of
11 the offense alleged in the complaint, such offense is a class A or
12 B felony, such person was prosecuted as an adult and such person
13 has been found guilty of such offense.

14 Sec. 5 40-[11]. K.S.A. 38-1636, 38-1673 and 38-1675 and
15 K.S.A. 1989 Supp. 38-1602 38-1618, 38-1636, 38-1673, 38-1675,
16 75-5206, 75-5220 and 75-5229 [and K.S.A. 1989 Supp. 21-4603, as
17 amended by section 12 of 1990 Senate Bill No. 77, and 21-4603c]
18 are hereby repealed.

19 Sec. 6 4-[12]. This act shall take effect and be in force from
20 and after its publication in the statute book.

4-25-90
VII
7/7

Department of Social and Rehabilitation Services

Testimony before

Senate Judiciary Committee

Regarding

Senate Bill 526

March 21, 1990

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

*Senate Judiciary Committee
4-25-90
Attachment IX
page 1 of 6*

Department Of Social and Rehabilitation Services
Winston Barton, Secretary

Testimony in Support of S.B. 526

AN ACT CONCERNING JUVENILE OFFENDERS;
RELATING TO PROSECUTION AS AN ADULT;
NOTICE TO VICTIMS OF RELEASE OR DISCHARGE
OF CERTAIN JUVENILE OFFENDERS.

(Mr. Chairman), Members of the Committee, I appear today in support of Senate Bill 526 which reduces the age for certain offenders to be prosecuted as adults under the criminal code and provides for notice to the prosecutor by a youth center prior to the release of certain juvenile offenders.

Background: The Kansas Juvenile Offender Code is a non-criminal code. The code directs that the state should provide the care, custody, guidance, control and discipline as will provide for the juvenile's rehabilitation and the protection of the community.

A Juvenile Offender is defined as a person between the ages of 10 and 18 who commits an act which would be a felony or misdemeanor if it had been committed by an adult. The Code provides two avenues to move youth from the Juvenile code to criminal prosecution. These avenues are exclusion and certification.

4-25-90
IX 2/6

Examples of exclusions from the Juvenile Code include traffic offenses except those which could lead to incarceration; fish and game offenses; youth convicted of Aggravated Juvenile Delinquency; and youth age 16 and over with two prior felony type adjudications who have a Current Felony Charge.

The second way to exclude a youth from the provision of the Code is through the certification procedure for youth 16 and older. This procedure requires the Court to review the case against certain criteria and decide if the youth should be tried under the Criminal Code or the Kansas Juvenile Offender Code.

Senate Bill 526 makes changes in both of these provisions by defining 16-17 year olds charged with A & B felonies out of the Juvenile Offender Code and by making it possible for the Court to certify for criminal prosecution 14 & 15 year olds charged with A & B felonies.

This bill further provides for youth centers to notify the prosecutor 45 days in advance of the discharge of a juvenile offender who was adjudicated on the basis of an A, B, or C type felony offense. The district or county attorney would subsequently provide notice to the victim.

Discussion: The age reductions in this bill would currently address approximately fourteen youth each year. During fiscal year 1988 a total of fourteen (14) youth were admitted to youth centers for A & B type felony offenses. During fiscal year 1989 thirteen (13) youth were admitted for those offenses. By far the most frequent offense in the A & B felony category is aggravated robbery. The attachment to this testimony is a listing of all admissions to the state

4-25-90
IX 3/6

youth centers during fiscal years 88 and 89 by the classification of the offense as well as the specific offense for which they were committed. Once a youth is convicted of a crime under this bill, provision for his/her housing, education and protection will be needed. The youth center system could provide custody services up to an agreed upon appropriate age as is done in some other states. This precludes the adult system from having to create programs for this small population of young adolescents in the adult institutions. When the youth attain a certain age transfer to the adult system could be accomplished.

The second issue addressed in this bill is victim notification. The Youth Centers would provide notice to the prosecutor in advance of the release of youth in A, B, or C felony type offenses. We are willing to provide such notice in support of victim notification.

Action Requested: We support the State addressing the need to provide different consequences for younger offenders who commit serious violent offenses. I urge your support of this bill with the suggested modifications.

Winston Barton
Secretary
Department of Social &
Rehabilitation Services
(913) 296-3271

4-25-90
IX 4/6

YOUTH CENTER COMMITTING OFFENSES

OFFENSES	FY 1988					FY 1989				
	YCA	YCB	YCL	YCT	TOT.	YCA	YCB	YCL	YCT	TOT.
<u>A FELONIES</u>										
AGGRAVATED KIDNAPPING	0	0	0	2	2	0	0	0	1	1
FIRST DEGREE MURDER	0	0	0	4	4	0	0	0	0	0
TOTAL A FELONIES					6					1
<u>B FELONIES</u>										
AGGRAVATED ARSON	0	0	0	0	0	0	0	0	1	1
AGGRAV. CRIMINAL SODOM	1	0	0	0	1	0	0	0	1	1
AGGRAVATED ROBBERY	2	0	1	3	6	1	0	1	7	9
KIDNAPPING	0	0	0	0	0	0	0	0	1	1
RAPE	0	0	1	0	1	0	0	0	0	0
TOTAL B FELONIES					8					12
<u>C FELONIES</u>										
AGGRAVATED BATTERY	2	2	2	8	14	1	2	0	15	18
AGGRAVATED BURGLARY	1	0	1	1	3	0	0	1	4	5
ARSON	1	0	1	2	4	3	0	0	2	5
ATTEMPTED AGGR. ROBBER	1	1	0	0	2	0	0	0	0	0
ATTEMPTED RAPE	0	0	0	1	1	1	0	0	0	1
CONSPIR. TO COMM. AN A F	0	0	0	1	1	0	0	0	0	0
IND. LIBERTIES W/ A CHILD	6	2	1	7	16	5	1	1	12	19
POSS. COCAINE W/INT TO SE	0	0	0	1	1	2	2	1	8	13
ROBBERY	2	0	1	3	6	3	0	0	6	9
TOTAL C FELONIES					48					70
<u>D FELONIES</u>										
AGGRAVATED ASSAULT	3	3	0	3	9	0	2	0	2	4
AGGRAVATED INCEST	0	0	0	0	0	0	0	0	2	2
AGGRAVATED SEXUAL BATT	3	2	1	0	6	3	0	0	1	4
ATTEMPTED AGGR. BURGLA	0	0	0	1	1	0	0	0	0	0
ATTEMPTED IND. LIB. W/CHIL	0	0	0	0	0	0	0	1	0	1
ATTEMPTED ROBBERY	1	0	0	0	1	0	0	0	0	0
BURGLARY	21	4	19	61	105	21	1	15	55	92
FORGERY	0	4	0	5	9	5	5	4	1	15
TOTAL D FELONIES					131					118
<u>E FELONIES</u>										
AGGR. ESCAPE FR. CUSTOD	0	0	0	0	0	0	0	0	1	1
ATTEMPTED BURGLARY	1	0	0	1	2	0	0	0	2	2
CONSPIR. TO COMM. FELON	4	0	0	1	5	1	1	0	0	2
CRIMINAL DAM. TO PROPER	3	1	4	4	12	1	3	2	5	11
INCEST	0	0	0	2	2	0	0	0	0	0
TERRORISTIC THREAT	1	1	1	3	6	0	0	1	1	2
THEFT	19	11	14	34	78	17	7	9	41	74
UNLW. USE OF FIN. CARD	0	1	0	0	1	0	0	0	0	0
TOTAL E FELONIES					106					92
<u>TOTAL FELONIES</u>					299					

293

4-25-90
IX 5/6

YOUTH CENTER COMMITTING OFFENSES

OFFENSES	FY 1988					FY 1989				
	YCA	YCB	YCL	YCT	TOT.	YCA	YCB	YCL	YCT	TOT.
<u>A MISDEMEANORS</u>										
ASSLT.ON LAW ENF.OFFICE	3	0	0	4	7	0	1	0	2	3
CRIMINAL DAM.TO PROPER	4	1	3	5	13	10	3	5	7	25
ESCAPE FROM CUSTODY	0	0	0	2	2	0	0	0	1	1
FALSELY REPORTING A CRI	0	0	0	0	0	0	1	0	0	1
HARRASSMENT BY TELEPH	0	0	0	0	0	0	1	0	0	1
OBSTRUCTING LEGAL PROC	1	7	0	0	8	0	0	0	2	2
POSS.OF DRUGS/PARAPH.	1	2	0	4	7	0	0	0	5	5
POSS.OF STOLEN PROPERT	0	0	0	0	0	1	0	0	6	7
SEXUAL BATTERY	0	0	0	0	0	1	0	0	1	2
THEFT	20	19	8	28	75	18	20	14	37	89
THEFT BY DECEPTION	1	0	0	0	1	0	0	0	0	0
UNLW.DEPR. OF PROPERTY	1	2	3	6	12	5	2	2	2	11
VEHICULAR HOMICIDE	0	0	0	1	1	0	0	0	0	0
TOTAL A MISDEMEANORS					126					147
<u>B MISDEMEANORS</u>										
BATTERY	6	10	1	22	39	8	11	1	14	34
CRIMINAL TRESSPASSING	0	3	3	3	9	1	2	2	6	11
CRUELTY TO ANIMALS	1	0	0	1	2	0	0	0	0	0
LEWD & LASCIVIOUS BEH.	0	0	0	1	1	0	0	0	2	2
PROSTITUTION	0	3	0	0	3	0	3	0	0	3
UNLW./POSS.USE OF FIREA	0	0	0	0	0	1	1	1	2	5
TOTAL B MISDEMEANORS					54					55
<u>C MISDEMEANORS</u>										
ASSAULT	4	3	0	2	9	1	2	2	3	8
DISORDERLY CONDUCT	3	4	0	4	11	4	2	0	1	7
TOTAL B MISDEMEANORS					20					15
<u>UNCLASSIF. MISDEMEANOR</u>	0	1	3	2	6	1	0	2	3	6
<u>TOTAL MISDEMEANORS</u>					206					223
<u>CONDITIONAL REL.REVOC.</u>	11	10	4	19	44	7	13	5	21	46
<u>TOTAL ADMISSIONS</u>					549					562

4-25-90
IX 6/6

Department of Social and Rehabilitation Services

Testimony before

Senate Judiciary Committee

Regarding

Senate Bill 741

and

Senate Bill 743

April 25, 1990

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

*Senate Judiciary Committee
4-25-90
Attachment X
page 1 of 6*

Department of Social and Rehabilitation Services

Winston Barton, Secretary

Testimony in Support of Senate Bill 741

AN ACT CONCERNING JUVENILE OFFENDERS;
RELATING TO THEIR RELEASE AT AGE 21;
PROVIDING FOR A HEARING TO ALLOW THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES TO RETAIN CUSTODY.

(Mr. Chairman), Members of the Committee, I appear today in support of Senate Bill 741 which amends the release provisions of the Juvenile Offender Code for serious offenders.

Background: There has been considerable discussion during this legislative session around the appropriate disposition of very serious juvenile offenders. Several alternative proposals have been offered all of which provide mechanisms to extend the time that a youth remains out of the community.

The Kansas Juvenile Offender Code is a non-criminal code. Its preamble states that youth who are handled under that code are not to be considered to have committed a crime. The code directs that the state should provide the care, custody, guidance, control and discipline as will provide for the juvenile's rehabilitation and the protection of the community.

A Juvenile Offender is defined as a person between the ages of 10 and 18 who commits an act which would be a felony or misdemeanor if it had been committed by an adult. The Code provides two avenues to move youth from the Juvenile Code to criminal prosecution. These avenues are exclusion and certification.

4-25-90
X 2/6

Examples of exclusions include traffic offenses except those which could lead to incarceration; fish and game offenses; youth convicted of Aggravated Juvenile Delinquency; and youth age 16 and over with two prior felony type adjudications who have a current felony charge.

The second way to exclude a youth from the provision of the Code is through the certification procedure for youth 16 and older. This procedure requires the Court to review the case against certain criteria and decide if the youth should be tried under the Criminal Code or the Kansas Juvenile Offender Code.

Discussion: This bill provides a simple straight forward mechanism to provide judicial discretion to the length of time a youth remains out of the community under the control of the State for the commission of A or B type felony offenses. Further this bill provides the protection that no juvenile would remain beyond the maximum they would have received under a sentencing by an adult court.

The major theme of this and other bills offered on this issue is to keep Juveniles who commit the most serious offenses in custody for a period of time equal to that which an adult would be required to spend in custody. I would like to suggest the following approach that could be incorporated here or in S.B. 526:

Convict the youth of having committed a crime with all of the attention and due process safeguards of an adult offender.

Require that once convicted of a crime (A or B felony) the youthful individual would be in the custody of the Secretary of SRS in a youth center until a certain age or range of ages, such as between 16 and 18. At the agreed upon age the individual would be transferred to the Custody of the Secretary of Corrections with their release date set by the parole board.

4-25-90
X 3/6

This approach would permit both the increased sanction proposed and it would allow for all individuals to be in age appropriate custody settings. The youth center system could provide custody services up to age 21 as is done in some other states. This precludes the adult system from having to create programs for this small population of young adolescents in the adult institutions. Our current facilities are better prepared to provide such programs. When the youth attains a suitable transfer age, movement to the adult system could be accomplished.

Action Requested: We would recommend support of a bill based on these concepts.

Winston Barton
Secretary
Department of Social and
Rehabilitation Services
(913) 296-3217

4-25-90
X 4/6

Department of Social and Rehabilitation Services
Winston Barton, Secretary

Testimony in Support of S.B. 743

(Mr. Chairman), Members of the Committee, I appear today in support of Senate Bill 743, which establishes the requirement for a Juvenile Offender Sub-plan in each Community Corrections Plan and establishes a Juvenile Offender Advisory Board as part of the Corrections Advisory Board.

Background: The current Community Corrections Act requires no provisions for juvenile offenders. As a result many plans do not address programming for juvenile offenders. The Juvenile Offender Policy Conference held in September, 1989, criticized the absence of a statewide continuum of care, which would provide a full range of services and programs matched to youths' needs for rehabilitation and communities' for protection. Conference recommendations included expanding opportunities for juvenile offenders to remain in their communities and to benefit from treatment and services developed locally to meet specific needs.

Discussion: The Department of Social and Rehabilitation Services supports the concept of community correction programs to address the needs of juvenile offenders and this bill would encourage communities toward that end. The concept of addressing the needs of juvenile offenders in their community is sound and should yield benefits.

We have two concerns with this bill that I would ask you to consider: 1) The Juvenile Sub-plan is not funded and implementation of the Sub-plan is not required; and 2) the Secretary of Corrections is established as the community corrections authority for juvenile matters, without including the Secretary of SRS in the grant approval chain.

4-25-90
X 5/6

Testimony in Support of SB-743

Page Two

Action Required: We support the concept of this bill and urge your support of this bill with the suggested modifications.

Winston Barton,
Secretary
Department of Social and
Rehabilitation Services
(913) 296-3271

4-25-90
X 6/6

LWVK

LEAGUE OF WOMEN VOTERS OF KANSAS

919½ South Kansas Topeka, KS 66612 (913) 234-5152

April 25, 1990

STATEMENT TO THE SENATE JUDICIARY COMMITTEE

Senator Winter and Members of the Committee:

The League of Women Voters of Kansas does not support lowering the age of juveniles to 14, 15, 16 or 17 so that these children shall, or may, be tried as adults even if the legislature covers only a limited number of children.

We do support allowing retention of such children after 21 with judicial review.

The League would like to suggest that if a master planning commission is being considered (SB 521) the subject of age should be discussed in depth by such a commission.

An alternative is to place the proposed legislation in an interim study committee for the following reasons: 1) to determine why such young children are committing such violent crimes by using available case histories and not names, of course, and experts in the field; 2) to find a constitutional way to retain these children longer without putting them into the adult system.

The League of Women Voters of Kansas supports the idea of juvenile offenders being included in community corrections comprehensive plans (SB 743).

Once again the League asks you to oppose legislation to prosecute juveniles as adults. These children are already lost by the time they become part of the justice system. In our opinion, putting them into the adult system will only make them worse. There must be another solution to the problem.

Thank you for your consideration.

Ann Heberger
LWVK Lobbyist

Senate Judiciary Committee
4-25-90
Attachment XI
page 1 of 1

Testimony of Jeffrey A. Moots
ACLU of Kansas
Ref: HB 2666
25 April, 1990

Senator Winters, members of the committee thank you for the opportunity to express the concerns the ACLU has about HB 2666. We have two primary concerns which may seem small in terms of the scope of this bill; however, these concerns are the very heart of HB 2666.

Our primary concern when this legislation was presented in the House is still the main concern today. This is the portion of HB 2666 allowing 14 and 15 year olds to be tried as adults. The ACLU believes it is wrong to give up on these people at this age and merely locking them away for an extended time. Merely putting them away does nothing but create a more hardened person when they are eventually released from prison. People at the age of 14 and 15 are still very impressionable. It should be the goal of the State of Kansas to put these people in an environment where the focus is on making them functional members of society. Even though this bill would have those persons under 16 years of age held in youth centers it is not very likely they will benefit from any assistance offered there since they know they still must serve time at the state prison. It is a sad day for this country and this state when we as a society give up on our young people and simply say there is nothing we can do except lock them up for many years. It is for this reason we request you as a committee strike the language allowing 14 and 15 year

Senate Judiciary Committee
4-25-90
Attachment XII page 1 of 2

old to be certified as adults from HB 2666.

The second issue I would like to address is found on page 11, line 9, which currently reads that no person under the age of 16 may be placed in the state prison or

industrial reformatory. The ACLU would like that raised to 18 years of age. There is no real reason for placing a young person into the main stream prison population before they are physically mature enough to protect themselves. We understand the present state law allows those juveniles tried as adults to be sent to adult prisons. All the ACLU asks is for this body to change this policy and show the world that Kansas is civilized enough to punish those that violate it's laws with out inflicting unnecessary brutality on them. It is important to remember, the the only thing separating society from the people we punish is we, hopefully, never forget they are human beings entitled under our Constitution to certain protections. Thank you.

4-25-90
XII 3/2



STATE OF KANSAS

MIKE HAYDEN, GOVERNOR

CHILDREN AND YOUTH ADVISORY COMMITTEE

SMITH-WILSON BLDG.
300 S.W. OAKLEY
TOPEKA, KANSAS 66606-1898

(913) 296-2017

KANS-A-N 561-2017

Testimony before the Senate Judiciary Committee
Senator Wint Winter, Chairman

SENATE BILL NO. 521
April 25, 1990

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR THE OPPORTUNITY TO TESTIFY ON THE PROPOSED MASTER PLANNING COMMISSION FOR JUVENILE AFFAIRS. MY NAME IS DOUG BOWMAN, AND I AM HERE ON BEHALF OF THE CHILDREN AND YOUTH ADVISORY COMMITTEE.

WE HAVE SEVERAL CONCERNS WITH THIS BILL. OUR FIRST CONCERN IS THAT THE SIZE OF THE CHILDREN AND YOUTH ADVISORY COMMITTEE WOULD BE DOUBLED FROM ITS CURRENT 14 MEMBERS. THIS ENLARGEMENT WOULD MAKE IT MORE DIFFICULT TO MANAGE OUR TASKS AND ACCOMPLISH OUR GOALS.

THERE IS SOME QUESTION AS TO HOW THIS MASTER PLANNING COMMISSION WOULD BE STAFFED AND FUNDED. WE UNDERSTAND THAT THE COORDINATOR POSITION WOULD BE TRANSFERRED FROM CHILDREN AND YOUTH. AS THE BILL IS CURRENTLY WRITTEN, IT APPEARS THAT THIS INDIVIDUAL WOULD BE THE ONLY STAFF AVAILABLE. WE ALSO WOULD LIKE TO KNOW HOW THIS PROPOSAL WOULD BE FUNDED.

IN CLOSING, WE WOULD LIKE TO SUGGEST THAT SENATE BILL NO. 521 DOES RAISE SOME INTERESTING POSSIBILITIES. IN ORDER TO MORE CAREFULLY ANALYZE THESE CHANGES, THE CHILDREN AND YOUTH ADVISORY COMMITTEE WOULD RECOMMEND THAT THIS BILL BE REFERRED TO A LEGISLATIVE INTERIM STUDY. THANK YOU.

Senate Judiciary Committee
4-25-90
Attachment XIII

page 1 of 1

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE ON SB 743
ROGER WERHOLTZ, DEPUTY SECRETARY OF CORRECTIONS
COMMUNITY AND FIELD SERVICES DIVISION
MARCH 20, 1990

The Department of Corrections believes community corrections can play a significant role in the juvenile justice system and is supportive of the concept contained in Senate Bill 743. However, we do not believe this is the year to implement such a mandate.

The Department of Corrections must oppose Senate Bill No. 743 at this time because of the demands such a requirement might place on a very limited budget and staff. Because of the severe fiscal constraints confronting state government this year, we believe this sends a message to the counties to plan for programs we know cannot be funded. We do not see the value of creating such tension between a state agency and local units of government.

Currently, we believe we will be able to fund only core programs (primarily adult intensive supervision) for counties just now beginning community corrections programs. Maintaining all of the services currently offered in the existing programs will also be a challenge without seeing existing programs begin or expand their juvenile services.

We are pessimistic that the resources can be found to fund an additional range of services or to provide staff to provide technical assistance and proper monitoring to insure proper and timely implementation.

Senate Judiciary Committee
4-25-90
Attachment XIV
page 1 of 1



TESTIMONY ON SENATE BILL 743
BEFORE THE SENATE JUDICIARY COMMITTEE

by

Cynthia Lutz Kelly, Deputy General Counsel
Kansas Association of School Boards

March 27, 1990

Mr. Chairman, members of the committee, thank you for the opportunity to appear before you today on behalf of our member school districts to thank you for including a representative of the board of education of each unified school district on the juvenile offender advisory boards created in section 2 (e) of Senate Bill 743. We believe that communication among the various entities who deal with juvenile offenders and children in need of care is essential if we are to begin addressing the needs of children at risk, and a board such as the one created here will help to achieve that end. We commend you for your foresight.

We ask you to recommend Senate Bill 743 favorably for passage.

Senate Judiciary Committee
4-25-90
Attachment XV

page 1 of 1

KANSAS CORRECTIONAL ASSOCIATION

RESOLUTION calling for the State of Kansas to establish a master planning commission for juvenile affairs, as prescribed in Senate Bill 521.

WHEREAS;

the Kansas Correctional Associations stated purpose is to advance the correctional process for all offenders, both adult and juvenile; and

WHEREAS;

children in Kansas face unprecedented challenges in coping with the alcohol and drug abuse, gang involvement, family dysfunction, and delinquency; and


WHEREAS;

concern identified by the 1989 Juvenile Offender Policy conference included the fragmentation and lack of coordination among juvenile service agencies; and

WHEREAS;

a commitment to address the crisis in juvenile services represents an investment in the preservation of the state's human and fiscal resources.

THEREFORE, be it resolved that the Kansas Correctional Association expresses its support for the provision of Senate Bill 521 that creates a master planning commission for juvenile affairs.



Robert Hannigan, President
Kansas Correctional Association

Senate Judiciary Committee

4-25-90

Attachment XVI

page 1 of 1

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 545-N -- Statehouse

Phone 296-3181

April 2, 1990 *

TO: Senator Wint Winter

Office No. 120-S

RE: Juvenile Offender Proposal No. 2 -- Revised

Various proposals have been made by you and others regarding the juvenile justice system. H.B. 3041 is a vehicle which may be used by the Senate Judiciary Committee to implement proposals regarding this topic. The following is a list of proposals which you have suggested for consideration and amendment into H.B. 3041.

1. Permit the retention of A, B, or C felony-type juvenile offenders in custody until age 25, but in no event longer than the juvenile could have been held had he/she been convicted originally as an adult.
2. Allow transfer of A, B, or C felony-type juvenile offenders over the age of 18 from Social and Rehabilitation Services (SRS) to the Department of Corrections (DOC) for placement in Community Corrections or DOC facilities other than KSP.
3. Require SRS to notify the local prosecutor 45 days before the proposed release of a juvenile offender who committed what would have been a class A, B, or C felony. Require the local prosecutor to give at least 30 days' notice of the pending release to the victim or victim's family. Permit the prosecutor or the judge on his own to file a motion to require the youth to be kept in the custody of SRS and not be released.
4. Provide for the assignment of support rights to the Secretary of DOC for children placed in his custody under the Code for Juvenile Offenders.
5. Expand the scope and function of the Advisory Commission on Juvenile Offender Programs and establish it as a free-standing commission separate from SRS. Require the Commission to develop a comprehensive report by December 15, 1991 on the reorganization of juvenile offender programs and to address, among other things:
 - a. a recommendation regarding the age of when a youth can be tried as an adult;

* April 25, 1990 - references of this memorandum to H.B. 3041 were interpreted to be replaced by H.B. 2666.

Senate Judiciary Committee
4-25-90
Attachment XVII page 1 of 2

- b. the desirability of utilizing community corrections programs for juvenile offenders;
 - c. the implementation of removal of juveniles from adult jails; and
 - d. possible program and facilities modifications for care and treatment of juveniles, whether held by SRS or DOC.
6. Pass H.B. 2703, which adds juvenile offenders to those who may participate in community corrections programs.

I hope this information will be useful to you. If I can be of further help, please let me know.

Michael Heim
Principal Analyst

90-404/MH/jl

4-25-90
XVII 3/2