

Approved

January 30, 1991
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

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

10:00 a.m./~~p.m.~~ on January 23, 1991 in room 514-S of the Capitol.

All members were present except: Senators Feleciano and Gaines who were excluded.

Committee staff present:

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

Conferees appearing before the committee:

Gordon Risk, American Civil Liberties Union of Kansas

Chairman Winter called the meeting to order by opening the hearing for the sex offender measures currently assigned to the committee.

SB 18 - sexually violent offenders.

SB 19 - persons likely to commit sexual acts as mentally ill person under treatment act for mentally ill persons.

SB 20 - required supervision and treatment by mental health professional for sex offenders.

Dr. Gordon Risk, American Civil Liberties Union of Kansas, testified in opposition to SB 18, SB 19 and SB 20. (ATTACHMENT 1) During questioning from the Committee, Dr. Risk stated they do not have a solution to address the problems that currently exist with peophiles and other repeat sex offenders, but declined to support any measures that would conceivably penalize those who do not fit the true pedophile profile.

Due to the Senate convening at 10:30 a.m., the hearings were continued to the next meeting of the Senate Judiciary Committee on Thursday, January 24, 1991 at 10:00 a.m. in room 514-S. The meeting was adjourned at 10:32 a.m.

ACLU on SB's 18, 19, 20

I'm Gordon Risk representing the ACLU of Kansas. This testimony also makes use of my training as a psychiatrist.

SB 18 creates a new diagnostic entity unknown to descriptive psychiatry, the "sexually violent predator", which has as much relation to scientifically observable psychopathology as the unicorn has to the animal kingdom. The entity is an ill-defined diagnostic joke, which could be used to incarcerate people for years. Since the entity has no factual basis, the evidence used to substantiate such a finding would thus be based on the paranoid fears and racial prejudice of the judge or jury hearing the case. Due process would almost certainly be seriously violated. This is a bad bill, which should be defeated.

Current law defines a mentally ill person as someone who is suffering from a severe mental disorder to the extent that such a person is in need of treatment, lacks capacity to make an informed decision concerning treatment, and is likely to cause harm to self or others. It is a reasonably crisp and clear standard, which, I think, has served us well. SB 19 would add as a group those deemed to be a sexual "menace to the health and safety of others." Defining what a menace is and whether someone is a menace seems to me to be an impossible task that will depend mostly on subjective judgements rather than objective facts and unnecessarily expose individuals to violations of due process of law. This bill should also be rejected.

I would object to those sections of SB 20 that attempt to predict what treatment an individual will need months or years from the date of sentencing. Any such prediction must of necessity be arbitrary, imprecise, and violative of due process. An individual's need for involuntary treatment should be assessed at the time treatment is to be undertaken and reassessed at appropriate intervals.

*Senate Judiciary Committee
January 23, 1991
Attachment 1*