

Approved 2-28-92  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative John Solbach at  
Chairperson

3:30 a.m./p.m. on February 20, 1992 in room 313-S of the Capitol.

All members were present except:

Representatives Allen, Garner, Gomez and O'Neal who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research  
Jill Wolters, Revisor of Statutes  
Judy Goeden, Committee Secretary

Conferees appearing before the committee:

State Representative Gene Amos  
State Representative Marvin Smith  
Ben Coats, Kansas Sentencing Commission  
Paul Shelby, Judicial Administration  
Judge Jim Burgess, 18th Judicial District  
Jim Clark, Kansas County & District Attorneys Association  
John Round, Overland Park Police Department & Shawnee Mission School Board  
Denise Apt, USD #500, Kansas City, Kansas Public Schools  
Connie Welsh, Principal, Antioch Middle School  
Corky Jacobs, Principal, Shawnee Mission Junior High School  
Sue McKenna, Attorney, Social & Rehabilitation Services  
Phyllis Chase, USD #501, Topeka  
State Representative David Corbin  
State Representative Don Rezac  
Bill Fuller, Kansas Farm Bureau  
Brad Lewis, President, Butler County Livestock Association  
Eldon Schwemmer, Eldorado, Ks  
Arlan Stackley, Eldorado, Ks  
Mike Beam, Kansas Livestock Association

The Chairman called the meeting to order.

State Representative Gene Amos requested a bill be introduced concerning probate policies. Representative Parkinson moved to introduce requested bill. Representative Pauls seconded the motion. Motion passed.

Hearing was opened on HB 2830, creating the crime of stalking. State Representative Marvin Smith testified in favor of HB 2830. (Attachment #1) He answered committee members questions. Hearing on HB 2830 was closed.

Ben Coats, Director of Kansas Sentencing Commission, reviewed the Task Force Studying Consolidation of Field Services report for committee members. (Attachment #2) There were no questions at this time, however further discussion will be held at a later meeting.

Representative Rock presented a proposed Kansas marching song. Rep. Rock moved to introduce a bill making the song the Kansas State Marching Song, and to recommend the bill favorably for passage and requested that it be referred to the Floor for action. Representative Vancrum seconded the motion. Motion carried.

Representative Vancrum moved to request a clean-up bill on garnishments. Representative Rock seconded the motion. Motion carried.

Representative Snowbarger moved to request a bill concerning inheritances as they involve adopted children. Representative Van Crum seconded the motion. Motion carried.

Hearing on HB 2692, disclosure of records regarding children in need of care and juvenile offenders, was opened.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,

room 313-S, Statehouse, at 3:30 ~~am~~/p.m. on February 20, 1992

Paul Shelby, Judicial Administration, supported HB 2692. (Attachment #3) He made several proposed amendments and answered questions from committee members.

Judge Jim Burgess, 18th Judicial District, testified in support of HB 2692. (Attachment #4) He thought it would be good to add the language, "State court authorized advocacy program" in the bill.

Jim Clark, Association of County and District Attorneys, testified he supported HB 2692.

John Round, Major, Overland Park Police Department & Member of Shawnee Mission School Board, testified in favor of HB 2692. (Attachment #5)

Denise Apt, U.S.D. #500, Kansas City Kansas Public Schools, testified in favor of HB 2692. (Attachment #6) She said Blue Valley School District and Kansas Peace Officers Association both support HB 2692. (Attachments 7 & 8)

Connie Welsh, Principal, Antioch Middle School, testified in favor of HB 2692. (Attachment #9) She gave specific examples of why she thought the bill was needed. She also discussed problems schools encounter under current restrictions.

Corky Jacobs, Principal of Shawnee Mission Junior High School, supported HB 2692. He said this bill would assist schools in planning the progress of their students. He felt the schools counseling departments would be the ones who would receive the information about students.

Sue McKenna, attorney, Department of Social & Rehabilitation Services, testified in opposition to HB 2692. (Attachment #10) She explained why she felt this bill might jeopardize Federal funds that are currently being received. She said she would be willing to work with a sub-committee on this bill. Chairman Solbach announced he will appoint a sub-committee to study this bill.

Phyllis Chase, U.S.D. #501, Topeka, said she supported HB 2692.

Hearing on HB 2692 was closed.

Hearing on HB 2841, livestock theft; forfeiture proceedings, was opened.

State Representative David Corbin testified in support of HB 2841. (Attachment #11) He said he felt the increase in penalties would help law enforcement officers. He also said he personally felt a stiffer penalty would be a deterrent.

Representative Don Rezac testified in favor of HB 2841. (Attachment 12)

Representative Corbin answered committee members questions. He stated he thought that cattle rustling was a "crime that does pay".

Representative Hochhauser moved to request introduction of two bills; 1) streamlining prosecution of liquor transportation and 2) clarification of protest petition language. Representative Macy seconded the motion. Motion carried.

Bill Fuller, Kansas Farm Bureau, testified in favor of HB 2841. (Attachment #13)

Brad Lewis, President of Butler County Livestock Association, testified in favor of HB 2841. (Attachment #14) He answered committee members questions.

Eldon Schwemmer, ElDorado, Kansas, testified in favor of HB 2841. (Attachment #15)

Arlan Stackley, ElDorado, Kansas, supported HB 2841. (Attachment #16)

Mike Beam, Kansas Livestock Association, testified in favor of HB 2841. (Attachment #17)

Hearing on HB 2841 was closed.

The meeting adjourned at 5:30 P.M.





TOPEKA

HOUSE OF REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: EDUCATION  
TAXATION  
TRANSPORTATION

MARVIN E. SMITH  
REPRESENTATIVE, FIFTIETH DISTRICT  
JACKSON AND SHAWNEE COUNTIES  
123 N.E. 82ND STREET  
TOPEKA, KANSAS 66617-2209  
(913) 484-3417  
CAPITOL-ROOM 155E  
TOPEKA, KS 66612  
(913) 296-7646

February 20, 1992

HOUSE JUDICIARY COMMITTEE

HB 2830

Mr. Chairman and members of the committee, I want to commend your introduction of the proposed legislation and for providing a committee hearing today.

Too many citizens in Kansas and especially our Topeka area are kept in fear from harassment and threat of bodily harm or threat against their lives.

Approximately 2 1/2 months ago Mary Workman, who lived on NE 35th Street in Soldier Township, was the victim of murder. Mary over the years as a constituent and state employee had written me letters, returned opinionaires, and was active in a taxpayers group. Mary's daughter was in the same class as my granddaughter at Seaman High School.

Prior to Mary's murder, according to reports of her co-workers and neighbors, she had sought law enforcement intervention, but apparently to NO avail. Maybe, if HB 2830 had been statutory law, Mary would be alive today!!

I urge your favorable consideration of the HB 2830. Maybe, honest law abiding citizens could again believe their lives and homes were safe from threat!

Thank you for listening to my concern.

(See Attachment)

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Attach #1  
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These are comments made by fellow citizens:

1. The Court restraining order for the home and workplace was not effective. The defendant repeatedly showed up at both places. (Restraining order considered by some as only a piece of paper.)
2. Ms. Workman stated that she repeatedly pleaded with police and sheriff officers for protection. Their response was that a crime had not yet been committed--he had to be caught breaking the law. (Yet, he had been arrested for assault with a deadly weapon, breaking and entering, aggravated intimidation and aggravated burglary in October of Mr. King, Ms. Workman's boyfriend.)
3. Ms. Workman told friends that she would be killed; it was just a matter of time until he would catch up to her. She was staying with different friends--moving around. Her teenage daughter was doing the same. Ms. Workman's mother was not given her location or phone number in an attempt to protect the mother from harm.
4. After her car was broken into at least twice, she traded for a more obscure model but was still followed and harassed by the defendant.
5. Unable to get a commitment for protection by police/sheriff, Ms. Workman borrowed a sawed off shotgun and a handgun to carry in an attempt to protect herself.
6. The present judicial system was too slow in bringing charges for crimes committed allowing repeat offenders to remain free and commit additional crimes. ~~The double homicide occurred a few days before the victims were to appear in court to testify against the defendant for a crime committed in October.~~ They were pressing charges against the defendant for assault with a deadly weapon, aggravated intimidation, and aggravated burglary. The impending court appearance prompted the desperate action of the defendant. Present law requires so much commitment from a threatened individual that they must greatly increase their risk before they can receive relief from the courts.

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# TASK FORCE STUDYING CONSOLIDATION OF FIELD SERVICES

## Executive Summary

### Task Force Formation

During the August, September, and October 1990 meetings the Criminal Justice Coordinating Council (CJCC) heard presentations from individuals representing agencies which supervise criminal offenders within Kansas communities. During the October 19, 1990 meeting, the council approved the following conceptual motion, to be forwarded to the Special Committee on Judiciary:

That representatives of Court Services, Community Corrections and Parole be appointed as a Task Force of the Kansas Sentencing Commission to develop guidelines for a program for consolidation of community supervision services. This Task Force would have available to it the staff resources of the Kansas Sentencing Commission and the Director of the State Community Corrections Board. The Task Force is responsible for developing the guidelines and returning its recommendation to the Criminal Justice Coordinating Council for consideration and recommendation for introduction to the Legislature.

The 1990 Special Interim Committee on Judiciary held hearings concerning the future role of field services (Proposal No. 14), which directed the Committee to monitor the development of Community Corrections and examine Parole services throughout the state in order to obtain maximum efficiency. The Committee concluded and recommended:

The Committee recognized the efforts of the CJCC studying the issue and encouraging the formation of a Task Force to study the possibility of duplicative actions regarding the release procedures involved in probation, parole, and Community Corrections, as well as the need for cost efficiency. Therefore, the Committee recommends the formation of such a Task Force under the auspices of the KSC with the proviso that a final report be made to the Legislature by January 15, 1992.

In January of 1991, the Kansas Sentencing Commission appointed four of its members to serve on the Task Force. Norma McGill and Greg Waller replaced John Burchill and Paul Morrison as Sentencing Commission representatives. The Secretary of Corrections was asked to appoint four Parole representatives and four Community Corrections representatives. The Chief Justice of the Kansas Supreme Court was asked to appoint four court representatives, two of which were District Court Judges and two Chief Court Services Officers. Meetings began February 25, 1991.

The Task Force developed the following mission statement:

The mission of the Kansas Sentencing Commission Task Force on Consolidation is to study Parole, Community Corrections, and Court Services (Probation) to determine the duplicative actions regarding cost efficiency and to make a report to the 1992 Legislature of any recommended changes.

The Task Force then set about collecting data, studying and making recommendations for the current system and possible consolidation of field services in Kansas.

**TASK FORCE MEMBERSHIP**

**Sentencing Commission Representatives**

Honorable Richard B. Walker, Chairperson  
Paul Morrison, Johnson County District Attorney  
John Burchill, Director of Saline County Community Corrections  
Gary L. Marsh, Chief Court Services Officer of 5th Judicial District  
Greg Waller, Sedgwick County Assistant District Attorney  
Norma McGill, Shawnee County Community Corrections

**Community Corrections Representatives**

Peggy Kanche, Director of Johnson County Community Corrections  
Frank McCoy, Director of Riley County Community Corrections  
Ed Janas, Director of Leavenworth County Community Corrections  
Mark Matese, Director of Douglas County Community Corrections

**Parole Representatives**

Roger Werholtz, Deputy Secretary of Corrections  
Jim Terrones, Corrections Manager  
Janet Valene-Pape, Supervisor South Central Region  
Rita Quillen, Supervisor Western Region

**Court Representatives**

Honorable Robert G. Jones, District Judge of 10th Judicial District  
Honorable Barry A. Bennington, District Judge of 20th Judicial District  
Doug Irvin, Chief Court Services Officer of 18th Judicial District  
Sue Fehrenbach, Chief Court Services Officer of 24th Judicial District

## Data Overview

The data collection effort highlighted the fact that uniform data does not exist. This lack of standard data makes planning and resource allocation difficult, if not impossible. Several million dollars are allocated from a variety of sources without any firm idea of caseload, workload, or services needed statewide.

The data collected only provided a snapshot. However, that snapshot indicated that:

Approximately 2,200 offenders are supervised by more than one agency or office;

Many services are duplicated within judicial districts;

Many services are only provided in a few districts;

Service delivery systems are tied to organizational and geographical boundaries and are not available to all clients.

Caseloads are expected to grow over the next several years. Adult caseloads will be greatly impacted if sentencing guidelines are passed.

Criminal justice system actors indicated duplication of supervision and services exists. They favored the creation of a new consolidated agency to deliver services. There was little support for consolidation within an existing agency.

Fiscal issues are difficult to resolve, programs are funded via an array of funding mechanisms. Any consolidation effort will have to deal with the loss of county funding and in-kind services. The Task Force estimates the value of the services to be approximately three million dollars.

A staffing analysis indicated there are adequate staff to meet the demands of the current workload. However, in order to meet the workload, changes in the status quo would have to take place:

- 1) The current supervisor to line staff ratio will have to be adjusted.
- 2) Staff will have to be shifted from one agency to another.
- 3) Tasks not involved in the direct supervision of clients will have to be curtailed.

## Recommendations for the Current System

Although the Task Force voted unanimously for the consolidation of field services, the members determined some immediate changes are necessary to improve the current system. The changes prescribed would eliminate the shortcomings of the current system and allow the agencies to provide better service delivery in a more economical manner. Duplication of services, inappropriate client placement, and unnecessarily extended terms of supervision will be curtailed when these changes are implemented. Requiring a workload formula and streamlining the Community Corrections grant process will help administrators in fiscal planning. Establishing a uniform database, creating a field service training program, and providing standardized forms will result in increased professionalism and efficiency.

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The Task Force deliberated over many issues faced by Field Services Officers. Supervision of offenders is a growing concern for all citizens. Community placement offers the most economical alternative to imprisonment. In order to adequately manage and supervise offenders in the community, field services personnel need to be educated, properly trained and have the services and resources available to reestablish offenders within the communities in which they participate. Regardless of whether consolidation of field services occurs, the Task Force feels it is important to move towards a more uniform system. The changes recommended are necessary now and will be beneficial to any present and all future organizations.

In synopsis, the Task Force recommends the following changes be put into effect Fiscal Year 1993:

- A. A mandated policy favoring single supervision;
- B. Use staffing conferences to appropriately place clients;
- C. Having a means of direct placement into Community Corrections programs;
- D. Development of interagency transfer criteria;
- E. Creation of Chief and Deputy Court Services Officer Specialists positions;
- F. Adoption of a standard risks/needs form;
- G. Creation of a field services training program;
- H. Creation of a criminal cost and restitution trustee;
- I. Standardized terms of probation;
- J. A change in the Community Corrections grant process;
- K. A mandated work-load formula;
- L. A change in the allocation of resources;
- M. Statutorily defined mission statements;
- N. Development of a uniform database.

### **Recommendations for Consolidating Field Services**

The Task Force determined consolidation of field services into a single agency, the Department of Field Services, would remedy the current fragmented system of client supervision and management. The Task Force recommends the transition be phased in over a period of time. The proposed agency is expected to surpass the achievements of the current field services agencies without adding significant costs to the state. The Task Force voted unanimously that juvenile issues should be studied further, and during the interim, juvenile offenders should remain with the court. The Task Force's work would apply only to adult offenders.

In synopsis, the Task Force recommends the following plan for consolidation of field services:

- A. Limit populations served to adult felons, adult misdemeanants, and interstate compact probationers and parolees;
- B. Only post conviction services will be provided;
- C. Consolidation will occur under a new executive branch agency. The agency will be named the Department of Field Services. The central office will be located in Topeka, Kansas;
- D. The central office will develop initial budget and transition plan;
- E. The central office will develop policies and procedures;
- F. The central office will be charged with personnel issues;
- G. The central office will manage fiscal issues;
- H. The central office will develop and maintain a database;
- I. The central office will provide informational services;
- J. The Department of Field Services will be divided into six regions;
- K. Working units will have a ratio of seven professional staff to one supervisor;
- L. Each region will have an advisory board;
- M. Client management will be based upon objective classification criteria;
- N. An oversight committee will monitor the performance of the Department of Field Services;
- O. The transition will be facilitated by committee work.

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**CHART 4**

**Individuals Supervised by Type of Agency  
May 31, 1991**

	<u>Court Services</u>	<u>Community Corrections</u>	<u>Parole</u>	<u>Total</u>
Adult Felons	6,481	2,185	5,499	14,165
Adult Misdemeanants	8,803	157	0	8,960
Juvenile Felons	1,587	49	0	1,636
Juvenile Misdemeanants	2,870	98	0	2,968
CINC	2,783	0	0	2,783
Domestic Cases	146	0	0	146
Adult Diversions	524	460	0	984
Juvenile Diversions	<u>758</u>	<u>59</u>	<u>0</u>	<u>817</u>
Total	23,952	3,008	5,499	32,459

**CHART 5**

**Number of Individuals\* Supervised by More Than One Office or Agency  
May 1991**

More than one Judicial District .....	518
More than one Community Corrections Agency .....	43
Court Services and Community Corrections .....	559
Court Services and Department of Corrections .....	900
Community Corrections and Department of Corrections ....	181
All three Agencies .....	<u>46</u>
Total .....	2,247

\*Includes juvenile and adult felons and misdemeanants, does not include diversions, CINCS, or domestics

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**CHART 10**

**Type of Duties Performed by Percent of Time by Type of Agency**

<u>Type of Duty</u>	<u>Court Services</u>	<u>Community Corrections</u>	<u>Parole</u>
Administrative	18%	30%	22%
Family Services	12%	0%	0%
Juvenile Offender Supervision	18%	5%	0%
Adult Offender Supervision	34%	34%	55%
Program/Reports	15%	30%	18%
Other	3%	1%	5%

**CHART 11**

**Field Services Fiscal Summary by Category by Agency  
CY 1990/FY 1991**

	<u>Personnel Cost</u>	<u>Operating Cost</u>	<u>Total</u>
Court Services	\$12,510,232.00 <sup>(1)</sup>	\$2,427,405.00 <sup>(2)</sup>	\$14,937,637.00
Community Corrections	6,130,293.00	2,773,051.00 <sup>(3)</sup>	8,903,344.00
Parole	2,864,895.00	2,192,149.00 <sup>(4)</sup>	5,057,044.00
Total	21,505,420.00	7,392,605.00	28,898,025.00

- <sup>(1)</sup> includes \$143,854 in county funding or state and federal grants
- <sup>(2)</sup> includes \$328,312 in donated office space: 54,719 sq ft./\$6 sq ft.
- <sup>(3)</sup> includes \$369,344 of county funding
- <sup>(4)</sup> includes \$1,214,956 drug and alcohol and mental health money

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**CHART 14**

**Statewide Average Staffing Ratios for the Various Agencies**

**Court Services**

Supervisors to total staff ..... 1 to 4.4

Supervisors to line staff ..... 1 to 3.4

Clerical to line staff/supervisor ..... 1 to 4.6

**Community Corrections**

Supervisors to total staff ..... 1 to 4.0

Supervisors to line staff ..... 1 to 3.3

Clerical to line staff/supervisor ..... 1 to 5.7

**Parole**

Supervisors to total staff ..... 1 to 5.75

Supervisors to line staff ..... 1 to 4.6

Clerical to line staff/supervisor ..... 1 to 4.7

**Over All**

Supervisors to total staff ..... 1 to 4.3

Supervisors to line staff ..... 1 to 3.5

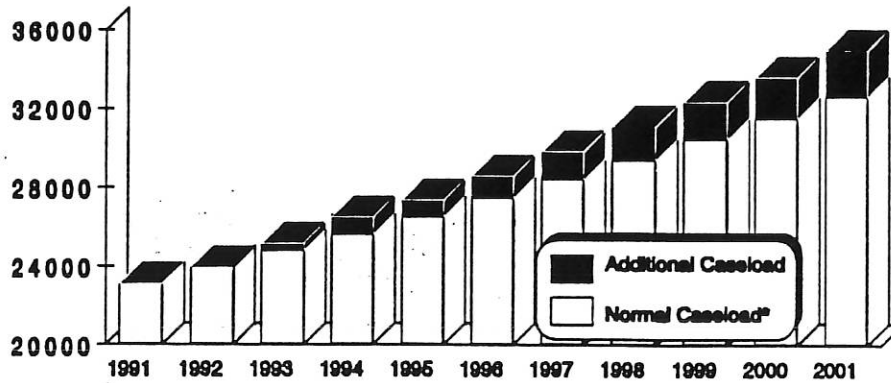
Clerical to line staff/supervisor ..... 1 to 4.9

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**CHART 17**

**Projected Adult Felony-Misdemeanor Caseloads  
FY 1992-2001 With Guidelines  
FY 1991 Base Year**

Baseline	<u>Year</u>	<u>Normal Caseload*</u>	<u>Additional Due to Guidelines</u>	<u>Total</u>
	1991	23,125	0	23,125
	1992	23,934	0	23,934
	1993	24,772	+414	25,186
	1994	25,639	+558	26,197
	1995	26,536	+866	27,402
	1996	27,465	+1,160	28,625
	1997	28,426	+1,456	29,882
	1998	29,421	+1,703	31,124
	1999	30,451	+1,936	32,387
	2000	31,517	+2,116	33,633
	2001	32,620	+2,396	35,016



\* Assumes 3.5% per year growth based upon a study completed by the National Council on Crime and Delinquency for the Department of Corrections

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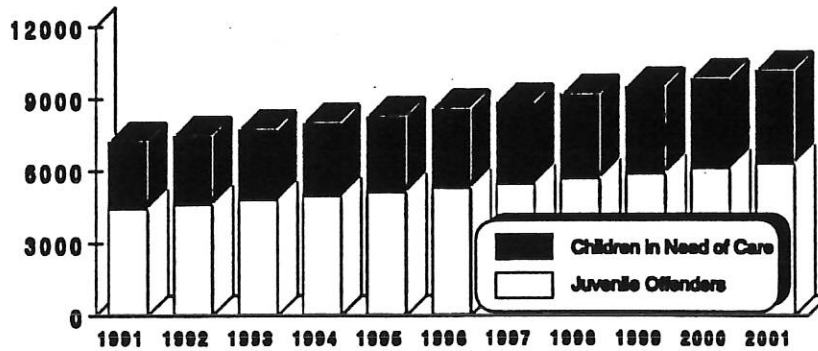
**CHART 18**

**Projected Juvenile Offender and Child in Need of Care Caseloads  
FY 1992-2001**

**FY 1991 - Base Year**

	<u>Year</u>	<u>Juvenile Offender</u>	<u>Child in Need of Care</u>	<u>Total</u>
Baseline	1991	4,457	2,783	7,240
	1992	4,613	2,880	7,493
	1993	4,774	2,981	7,755
	1994	4,942	3,086	8,028
	1995	5,115	3,194	8,309
	1996	5,294	3,350	8,644
	1997	5,479	3,412	8,891
	1998	5,671	3,540	9,211
	1999	5,870	3,664	9,534
	2000	6,075	3,793	9,868
	2001	6,288	3,926	10,214

\* Assumes 3.5% per year growth

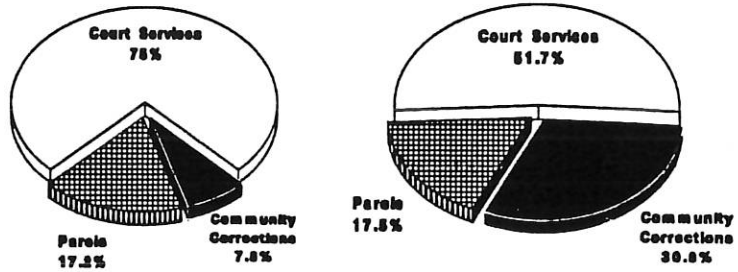


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**CHART 20**

**Comparison of Caseload and Expenditures  
by Percent by Type of Agency**

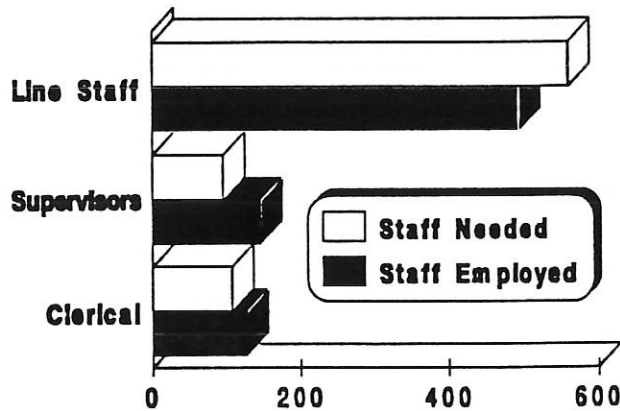
	<u>Percent of Caseload</u>	<u>Percent of Expenditures</u>
Court Services	75.0%	51.7%
Community Corrections	7.8%	30.8%
Parole	17.2%	17.5%



**CHART 26**

**Comparison of Type of Staff Needed by Type of Staff Employed  
May 1991**

	<u>Staff Needed</u>	<u>Staff Employed</u>
Line Staff	559.50	494.25
Supervisors	94.25	146.75
Clerical	<u>106.25</u>	<u>127.5</u>
Total	760.0	768.5



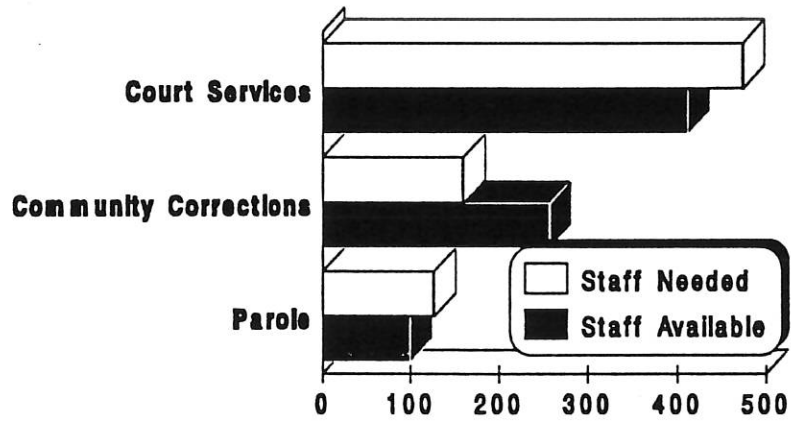
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**CHART 27**

**Staff Available Compared to Staff Required by Agency  
May 1991**

	<u>Staff Needed</u>	<u>Staff Available</u>
Court Services	473.75	412.0
Community Corrections	160.0	257.0
Parole	126.25	99.5



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House Bill No. 2692  
House Judiciary Committee  
February 20, 1992

Testimony of Paul Shelby  
Assistant Judicial Administrator  
Office of Judicial Administration

Mr. Chairman and members of the committee:

I thank you for the opportunity to discuss with you House Bill No. 2692 which relates to disclosure of certain records. We support this measure with an amendment as well as our District Magistrate Judges who could not be here today. I have also discussed this proposal with District Judge Daniel Mitchell, Shawnee County and he supports the bill with our amendment.

Section 1 of this bill would amend K.S.A. 38-1506, records pertaining to child in need of care cases to open the official files of the courts to any individual, or any public or private agency or institution, having custody of the child under court order or providing social, education, medical, mental health, advocacy or other professional services to the child.

Section 4 amends K.S.A. 38-1608, court records pertaining to juvenile offenders cases to open the official files to the same list of persons.

We support the provision and the need for allowing access to these records to social, education, medical, mental health or advocacy groups that are providing services to the child. We have concerns with allowing the language or other professional services.

We feel it is too broad in nature, for example, a music teacher or a certified public accountant or anyone who claims to be a professional. It would be the responsibility of our clerks and court services officers to make that determination.

We offer an amendment that would delete the language of other professional services in Sections 1 and 4. If there are other professionals that feel they need this information for some reason then the "need to know" should be in control of the judge.

I urge the committee to approve our amendment.

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Attach #3  
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HOUSE BILL No. 2692

By Special Committee on Children's Initiatives

1-14

8 AN ACT concerning children; relating to disclosure of certain re-  
9 cords; amending K.S.A. 38-1508 and K.S.A. 1991 Supp. 38-1506,  
10 38-1507, 38-1607 and 38-1608 and repealing the existing sections.  
11

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

13 Section 1. K.S.A. 1991 Supp. 38-1506 is hereby amended to read  
14 as follows: 38-1506. (a) *Official file.* The official file of proceedings  
15 pursuant to this code shall consist of the petition, process, service  
16 of process, orders, writs and journal entries reflecting hearings held  
17 and judgments and decrees entered by the court. The official file  
18 shall be kept separate from other records of the court. The official  
19 file shall be privileged and shall not be disclosed directly or indirectly  
20 to anyone except:

21 (1) A judge of the district court and members of the staff of the  
22 court designated by a judge of the district court;

23 (2) the guardian *ad litem* and the parties to the proceedings and  
24 their attorneys;

25 (3) ~~a any individual, or any public or private agency or insti-~~  
26 ~~tution, having custody of the child under court order or providing~~  
27 ~~social, educational, medical, mental health, advocacy or other pro-~~  
28 ~~fessional services to the child; and~~

29 (4) any other person when authorized by a court order, subject  
30 to any conditions imposed by the order.

31 (b) *Social file.* Reports and information received by the court,  
32 other than the official file, shall be privileged and open to inspection  
33 only by the guardian *ad litem* or an attorney for an interested party  
34 or upon court order. The reports shall not be further disclosed by  
35 the guardian *ad litem* or attorney without approval of the court or  
36 by being presented as admissible evidence.

37 (c) *Preservation of records.* The Kansas state historical society  
38 shall be allowed to take possession for preservation in the state  
39 archives of any court records related to proceedings under the Kansas  
40 code for care of children whenever such records otherwise would  
41 be destroyed. No such records in the custody of the Kansas state  
42 historical society shall be disclosed directly or indirectly to anyone  
43 for 100 years after creation of the records, except as provided in

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1 subsections (a) and (b). Pursuant to subsections (a)(4) and (b), a judge  
2 of the district court may allow inspection for research purposes of  
3 any court records in the custody of the Kansas state historical society  
4 related to proceedings under the Kansas code for care of children.

5 Sec. 2. K.S.A. 1991 Supp. 38-1507 is hereby amended to read  
6 as follows: 38-1507. (a) All records and reports concerning child abuse  
7 or neglect received by the department of social and rehabilitation  
8 services or a law enforcement agency in accordance with K.S.A. 38-  
9 1522 and amendments thereto are confidential and shall not be dis-  
10 closed except under the following conditions:

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

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

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

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

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

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

33 (E) a police or other law enforcement agency;

34 (F) an agency charged with the responsibility of preventing or  
35 treating physical, mental or emotional abuse or neglect or sexual  
36 abuse of children, if the agency requesting the information has stan-  
37 dards of confidentiality as strict or stricter than the requirements of  
38 this code;

39 (G) a person who is a member of a multidisciplinary team; or

40 (H) an agency authorized by a properly constituted authority to  
41 diagnose, care for, treat or supervise a child who is the subject of  
42 a report or record of child abuse or neglect; or

43 (I) any individual, or any public or private agency or institution,

*Handwritten notes:*  
38-1507  
38-1508  
38-1607  
38-1607

1 *having custody of the child under court order or providing soc-*  
2 *educational, medical, mental health, advocacy or other professio*  
3 *services to the child, with protection for the identity of report*  
4 *and other appropriate persons.*

5 (b) No individual, association, partnership, corporation or ot  
6 entity shall willfully or knowingly permit or encourage the un-  
7 thorized dissemination of the contents of records or reports co  
8 cerning child abuse or neglect received by the department of soc  
9 and rehabilitation services or a law enforcement agency in accorda  
10 with K.S.A. 38-1522 and amendments thereto except as provid  
11 by this code. Violation of this subsection is a class B misderr

12 (c) Records or reports given to persons described in ~~paragra~~  
13 ~~(a)(2)(A)~~ subsection (a)(2)(G) shall not be further disclosed to perso  
14 who are not members of the multidisciplinary team without pri  
15 approval of the court.

16 Sec. 3. K.S.A. 38-1508 is hereby amended to read as follow  
17 38-1508. All records and reports concerning child abuse or negle  
18 received by law enforcement agencies shall be kept separate fro  
19 all other records and shall not be disclosed to anyone except:

20 (a) The judge and members of the court staff designated by th  
21 judge of the court having the child before it in any proceedings;

22 (b) the guardian *ad litem* and the parties to the proceedings ar  
23 their attorneys, subject to the restrictions imposed by subsectic  
24 (a)(2)(C) of K.S.A. 38-1507 and amendments thereto;

25 (c) the department of social and rehabilitation services;

26 (d) ~~the officers of public institutions or agencies to whom~~  
27 ~~custody of the child has been granted any individual, or an~~  
28 ~~officer of a public or private agency or institution, having custod~~  
29 ~~of the child under court order or providing social, educationa~~  
30 ~~medical, mental health, advocacy or other professional services t~~  
31 ~~the child, with protection for the identity of reporters and othe~~  
32 ~~appropriate persons; and~~

33 (e) law enforcement officers or county or district attorneys c  
34 their staff when necessary for the discharge of their official dutie  
35 in investigating or prosecuting a report of known or suspected chil  
36 abuse or neglect.

37 Sec. 4. K.S.A. 1991 Supp. 38-1607 is hereby amended to rea  
38 as follows: 38-1607. (a) *Official file.* The official file of proce  
39 pursuant to this code shall consist of the complaint, proces  
40 of process, orders, writs and journal entries reflecting hearin  
41 and judgments and decrees entered by the court. The official fil  
42 shall be kept separate from other records of the court. The officia  
43 file shall be open for public inspection as to any juvenile 16 or more

1 years of age at the time any act is alleged to have been committed.  
 2 The official file shall be privileged as to any juvenile less than 16  
 3 years of age at the time any act is alleged to have been committed  
 4 and shall not be disclosed directly or indirectly to anyone except:

5 (1) A judge of the district court and members of the staff of the  
 6 court designated by the judge;

7 (2) parties to the proceedings and their attorneys;

8 (3) ~~a any individual, or any public or private agency or insti-~~  
 9 ~~tution, having custody of the juvenile under court order or providing~~  
 10 ~~social, educational, medical, mental health, advocacy or other pro-~~  
 11 ~~fessional services to the child;~~

12 (4) law enforcement officers or county or district attorneys or  
 13 their staff when necessary for the discharge of their official duties;  
 14 and

15 (5) any other person when authorized by a court order, subject  
 16 to any conditions imposed by the order.

17 (b) *Social file.* Reports and information received by the court  
 18 other than the official file shall be privileged and open to inspection  
 19 only by attorneys for the parties or upon order of a judge of the  
 20 district court or an appellate court. The reports shall not be further  
 21 disclosed by the attorney without approval of the court or by being  
 22 presented as admissible evidence.

23 (c) *Preservation of records.* The Kansas state historical society  
 24 shall be allowed to take possession for preservation in the state  
 25 archives of any court records related to proceedings under the Kansas  
 26 juvenile offenders code whenever such records otherwise would be  
 27 destroyed. The Kansas state historical society shall make available  
 28 for public inspection any unexpunged docket entry or official file in  
 29 its custody concerning any juvenile 16 or more years of age at the  
 30 time an offense is alleged to have been committed by the juvenile.  
 31 No other such records in the custody of the Kansas state historical  
 32 society shall be disclosed directly or indirectly to anyone for 100  
 33 years after creation of the records, except as provided in subsections  
 34 (a) and (b). Pursuant to subsections (a)(5) and (b), a judge of the  
 35 district court may allow inspection for research purposes of any court  
 36 records in the custody of the Kansas state historical society related  
 37 to proceedings under the Kansas juvenile offenders code.

38 (d) Relevant information, reports and records shall be made avail-  
 39 able to the department of corrections upon request and a showing  
 40 that the former juvenile has been convicted of a crime and placed  
 41 in the custody of the secretary of the department of corrections.

42 Sec. 5. K.S.A. 1991 Supp. 38-1608 is hereby amended to read  
 43 as follows: 38-1608. (a) All records of law enforcement officers and

or

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 HJC  
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1 agencies and municipal courts concerning a public offense committed  
2 or alleged to have been committed by a juvenile under 16 years of  
3 age shall be kept readily distinguishable from criminal and other  
4 records and shall not be disclosed to anyone except:

5 (1) The judge and members of the court staff designated by the  
6 judge of a court having the juvenile before it in any proceedings;

7 (2) parties to the proceedings and their attorneys;

8 (3) the department of social and rehabilitation services ~~or the~~  
9 ~~officers of public institutions or agencies to whom the juvenile~~  
10 ~~is committed;~~

11 (4) *any individual, or any officer of a public or private agency*  
12 *or institution, having custody of the juvenile under court order or*  
13 *providing social, educational, medical, mental health, advocacy or*  
14 *other professional services to the juvenile;*

15 ~~(4)~~ (5) law enforcement officers or county or district attorneys  
16 or their staff when necessary for the discharge of their official duties;

17 ~~(5)~~ (6) the central repository, as defined by K.S.A. 22-4701 and  
18 amendments thereto, for use only as a part of the juvenile offender  
19 information system established under K.S.A. 38-1618 and amend-  
20 ments thereto; and

21 ~~(6)~~ (7) any other person when authorized by a court order, sub-  
22 ject to any conditions imposed by the order.

23 (b) The provisions of this section shall not apply to records  
24 concerning:

25 (1) A violation, by a person 14 or more years of age, of any  
26 provision of chapter 8 of the Kansas Statutes Annotated or of any  
27 city ordinance or county resolution which relates to the regulation  
28 of traffic on the roads, highways or streets or the operation of self-  
29 propelled or nonself-propelled vehicles of any kind;

30 (2) a violation, by a person 16 or more years of age, of any  
31 provision of chapter 32 of the Kansas Statutes Annotated; or

32 (3) an offense for which the juvenile is prosecuted as an adult.

33 (c) All records of law enforcement officers and agencies and mu-  
34 nicipal courts concerning a public offense committed or alleged to  
35 have been committed by a juvenile 16 or 17 years of age shall be  
36 subject to the same disclosure restrictions as the records of adults.

37 (d) Relevant information, reports and records shall be made avail-  
38 able to the department of corrections upon request and a showing  
39 that the former juvenile has been convicted of a crime and placed  
40 in the custody of the secretary of the department of corrections.

41 Sec. 6. K.S.A. 38-1508 and K.S.A. 1991 Supp. 38-1506, 38-1507,  
42 38-1607 and 38-1608 are hereby repealed.  
43

Handwritten notes and signatures in the bottom left corner, including the date "9/27/93" and initials.

1 Sec. 7. This act shall take effect and be in force from and after  
2 its publication in the statute book.

*File # 8  
of 1000  
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L  
C*

*Intro 8-14*

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS

ADMINISTRATIVE ORDER

91-4

WHEREAS, activities of "youth gangs" (i.e., a group working to unlawful or antisocial ends) in and around schools imperils the safety of students and the educational environment on school campuses, and participation in youth gangs imperils the health, safety, and future of juveniles involved;

WHEREAS, concerns about confidentiality may have restricted communication between the juvenile department of this court and public school officials, law enforcement agencies, and social workers employed by the state;

WHEREAS, lack of communication among these public agencies impedes identification of juveniles at risk of participating in or becoming victims of youth gang activities, the prevention of participation in gang activities, the identification and prosecution of certain juvenile offenders, the evaluation and placement of adjudicated juvenile offenders, and the ability of educators to provide the best education possible for juveniles; and

*HJC  
2-20-92  
Attach #4  
103*



WHEREAS. K.S.A. 38-1506 and 38-1607 authorize the Court to disclose information concerning juvenile offender and child in need of care cases and the welfare of the juveniles at risk and the welfare of the community would be served by sharing information from this court's records with appropriate agencies.

IT IS THEREFORE ORDERED that court services officers of this court are authorized to disclose information regarding a juvenile/child who is subject to this court's jurisdiction from this court's files and records to (1) the chief administrative officer of a school where the juvenile or child is enrolled, (2) the U.S.D. 259 area superintendent in whose area the school is located, (3) the superintendent of any other school district in Sedgwick County, (4) any social worker employed by a school district or the Kansas Department of Social and Rehabilitation Services who is working with the juvenile/child or the family of the juvenile/child, (5) any law enforcement officer conducting an investigation regarding the juvenile's activities and/or (6) the supervisor of security for any of such school district.

IT IS FURTHER ORDERED that any individual receiving information pursuant to this authorization shall recognize and respect the confidential nature of such

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Attach #4  
283

information and, while such information may be shared with others within that agency on a "need to know" basis, shall take all precautions necessary to avoid an unwarranted or indiscriminate disclosure of such information to others.

IT IS FURTHER ORDERED that the information released under this order shall be that which relates to participation in or victimization by youth gang activities including but not limited to:

1. Offenses relating to the possession or sale of drugs, offenses against persons, weapons offenses, and offenses which if committed by an adult would be Class A, B, or C felonies,
2. Offenses of any nature if a juvenile is sixteen years of age or older or if a juvenile under the age of sixteen has been adjudicated a juvenile offender on three (3) occasions,
3. Any information disclosed by a juvenile to a court service officer or other court related personnel.

Certificate of Clerk of the District Court. The above is a true and correct copy of the original instrument filed on the 8th day of March, 1991, and recorded in the Court of the Eighteenth Judicial District, Jackson County, Kansas. Witness my hand and the seal of said Court this 8th day of March, 1991.  
 Clerk of the District Court.

By Arlene Hunter

MICHAEL CORRIGAN

Michael Corrigan  
 Administrative Judge



HJC  
 2-20-92  
 Attach #4  
 3 of 3

COMMENTS TO THE

HOUSE JUDICIARY COMMITTEE

BY

JOHN ROUND  
MAJOR, OVERLAND PARK POLICE  
MEMBER, SHAWNEE MISSION SCHOOL BOARD

THURSDAY, FEBRUARY 20, 1992

REGARDING

HOUSE BILL 2692

HJC  
2-20-92  
Attach #5

My name is John Round and I am here today to speak in favor of House Bill No. 2692 which was developed by the "Special Committee on Children's Initiatives". I sincerely appreciate having the opportunity to speak to the committee. Please understand that I am here today wearing two hats. First, I am speaking on behalf of the City of Overland Park and the Overland Park Police Department. Second, I am privileged to speak for the Shawnee Mission School Board.

In order to provide some background information, it is important for you to know that the Overland Park Police Department and the Shawnee Mission School District have been working for more than a year to develop a coordinated approach directed toward dealing with violence in schools. This effort began with informal meetings between police department staff and school district staff after several incidents in which weapons were discovered to be on school property. The informal meetings progressed into what came to be known as the "Safe Environment Task Force". The purpose of this group was simply to ensure that children have a safe environment in which to learn and develop. Initially, the Safe Environment Task Force involved only the Overland Park Police Department and the Shawnee Mission School District. However, that Task Force has expanded to include all law enforcement agencies in Johnson County as well as the six public school districts. The Task Force is now known as the "Johnson County Coalition for Safe School Environment". This concept has

HJC  
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Attch # 5-2

been endorsed by the City of Overland Park, the Shawnee Mission School Board, and the respective school boards of the other five public school districts in Johnson County. The coalition is continuing to move forward focusing on issues related to providing a safe environment for children. Most recently the coalition was expanded to include parents, business people, and others in the community.

One matter of concern which has developed as a result of these cooperative efforts relates to the fact that there are a number of state statutes that operate to restrict the flow of information regarding young people between school districts and law enforcement agencies. While there may be other state statutes that impact this, the most obvious of those is K.S.A. 38-1608. Certainly there are some statutes which require the reporting of suspected cases of child abuse or neglect. However, there are a number of other statutes including the one cited above that operate to restrict the flow of information between school districts and law enforcement agencies.

Frequently a police department is called to a school in order to investigate a crime and later discovers that the crime was in fact committed by a juvenile. Under current law, in most cases, the police department is prohibited from communicating that information to school officials. In fact, police reports relating to juvenile misconduct are not available even to the

parents of the juveniles involved. Additionally, other types of investigations conducted by law enforcement agencies relating to juvenile matters are not permitted to be discussed with school officials. Furthermore, there are a number of types of information relating to juveniles that school districts are not permitted either by policy or statute to communicate to law enforcement officials. Since a close working relationship must exist between most school districts and law enforcement agencies, this inability to effectively communicate information works to the detriment of these agencies as well as the children involved. In fact, one of the key issues identified by the "Johnson County Coalition for Safe School Environment" relates to the inability of these agencies to effectively exchange information. This is particularly important when attempting to ensure that a safe learning environment is maintained.

It is the position of the City of Overland Park and the Shawnee Mission School District that current state statutes should be modified, not only to encourage, but to require a free flow of information between school districts, law enforcement agencies, and other agencies that work with children. That flow of information should include all matters relating to crime, juvenile misconduct, matters of delinquency, matters of truancy, and other issues relating to the welfare of children. We believe that House Bill No. 2692 works to accomplish these goals and would urge you to give this Bill favorable consideration.

I have attached copies of portions of the legislative programs for both the City of Overland Park and the Shawnee Mission School District to my comments. Also, I have attached a copy of the resolution regarding the "Johnson County Coalition for Safe School Environment" which was endorsed by all six public school districts in Johnson County earlier this year.

Thank you.

Attachments:

City of Overland Park  
1992 State Legislative Program  
(Goal Area: Public Safety)

Shawnee Mission School Board  
1992 Legislative Program  
(Section VIII, Communication)

Johnson County Coalition  
For Safe School Environment  
(Resolution of Intent)



PROPOSED 1992 STATE LEGISLATIVE PROGRAM

GOAL AREA: PUBLIC SAFETY

ISSUE: EXCHANGE OF INFORMATION  
BETWEEN SCHOOL DISTRICTS AND  
LAW ENFORCEMENT AGENCIES

COMMENT: Current Kansas law severely restricts the type of information regarding juveniles that can be exchanged or communicated between school districts and law enforcement agencies. While there may be other statutes that impact this, the most obvious of those is K.S.A. 38-1608. Certainly there are some statutes which require the reporting of suspected cases of child abuse. However, there are a number of other statutes including the one cited above that operate to restrict the flow of information between school districts and law enforcement agencies.

Often a police department is called to a school in order to investigate a crime and later discovers that the crime was in fact committed by a juvenile. Under current law, in most cases the police department is prohibited from communicating that information to school officials. Additionally, other types of investigations conducted by law enforcement agencies relating to juvenile crime are not permitted to be discussed with school officials. Furthermore, there are a number of types of information relating to juveniles that school districts are not permitted by either policy or statute to communicate to law enforcement officials. Since a close working relationship does exist or should exist between most school districts and law enforcement agencies, this inability to effectively communicate information works to the detriment of both agencies.

POSITION: It is the position of the City of Overland Park that current state statutes should be modified not only to encourage but to require a free flow of information between school districts and law enforcement agencies. That flow of information should include all information relating to crime, juvenile misconduct, matters of truancy and other issues relating to the welfare of children.

City of Overland Park

Rationale: We believe there are other, and more effective methods of disciplining students than the use of physical punishment.

VII. ALTERNATIVE CERTIFICATION

Position: We support legislation that would permit the state board of education to approve an alternative system of certification for teachers.

Rationale: Local boards of education often find well qualified persons in their community who could provide valuable instructional experiences for students but don't meet current standards for certification. Certification standards should include some requirements concerning experience, expertise or training, but local boards should be given flexibility in the employment and assignment of such persons.

VIII. COMMUNICATION

Position: We support legislation which would permit and encourage the free exchange of information regarding shared juveniles between and among governments, mental health agencies, and police departments.

Rationale: Increased communication would enable school districts to provide a safer environment for students and staff.

IX. EDUCATIONAL WARRANTY

Position: We support the position that school districts should provide, at no cost to the student, remediation in the basic skills for those graduates unable to secure or retain a job due to deficiencies in these basic skills.

Rationale: This provides a measure of accountability to our graduates.

Shawnee Mission School Board



Johnson County Board of Education  
4401 West 103rd Street  
Overland Park, Kansas 66204  
Phone: (913) 251-2000  
Fax: (913) 251-2001

February 7, 1992

To: Johnson County Coalition Executive Team Members and  
Johnson County Police Departments

From: David Stewart *DS*

Subject: February Status Report Meeting

January 31st the Superintendents of the six public school districts in Johnson County formulated the Johnson County Coalition for Safe School Environment. A resolution indicating that intent (attached) will be passed by the Board of Education of each of the districts during the month of February. Three of these will be acted on February 10. At that meeting they also empowered an executive committee to act as a communication link and a representative for each of the districts (listed in the heading) to act as a communication link and to conduct appropriate meetings to accomplish the committee goals.

To operationalize this network and to ensure all necessary components are being covered, I have scheduled a one and one-half hour meeting on Friday, February 14, 8:00 a.m., Indian Creek Technology Center, 4401 West 103rd. At this time we can review actions currently in progress, what additional groups need to be involved, items that need immediate attention, issues that need to be shared, effective system of communication, etc.

I hope you will be able to attend the meeting and I will look forward to seeing you then. If you cannot attend, please let me know or send an appropriate representative.

DS:w  
Enc.

---

JOHNSON COUNTY COALITION  
FOR  
SAFE SCHOOL ENVIRONMENT

RESOLUTION OF INTENT

WHEREAS, the Nation's Education Goals states: "by the year 2000 every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning"; and

WHEREAS, America's system of public education relies not only on the skills and dedication of teachers, school administration and educational support staff, but also on the encouragement and support of the entire community; and

WHEREAS, a united effort among the Johnson County schools and the local community will help foster the well-being of all students through a safe learning environment; and

WHEREAS, heightened cooperation and collaborative initiatives of the Johnson County school districts, the local law enforcement agencies, and the patrons of this community will enable schools to maintain the best educational opportunities for all students in a safe school environment:

BE IT THEREFORE RESOLVED, that the Board of Education of the Shawnee Mission School District hereby affirms its intent to support an interagency collaboration among schools and to provide the leadership necessary to accomplish a safe school environment for all students.



# Kansas City, Kansas Public Schools

625 Minnesota Avenue • Kansas City, Kansas 66101 • (913) 621-3073

Jerry P. Franklin  
Assistant Superintendent  
for Business Affairs

Sharon K. Layman  
Director of Food Service

Ren Jost  
Director of Transportation

Kelly D. Lowman  
Director of Physical  
Properties

Charles T. O'Neal  
Comptroller and Treasurer

Robert Young  
Purchasing Agent

## TESTIMONY ON HOUSE BILL NO. 2692 HOUSE JUDICIARY COMMITTEE

FEBRUARY 20, 1992

DENISE C. APT -- LEGISLATIVE LIAISON  
U.S.D. #500, KANSAS CITY KANSAS PUBLIC SCHOOLS

Thank you Mr. Chairman and Members of the Committee for the opportunity to appear before you in support of H.B. 2692.

We believe it is a good piece of legislation and will be of help to U.S.D. 500 and more importantly to the students of U.S.D. 500, 9,742 of which are at-risk.

The communication between the custodian of the child and those providing social, educational, medical, mental health, advocacy and professional services will be invaluable in assisting that child to be a productive citizen, or in dire circumstances, help protect those who are in contact with the student.

In legal circles, I'm sure "social file" is understood. In layman's circles I'm not sure it is as well understood. Perhaps clarification of that term in H.B. 2692 would be helpful.

Again we support H.B. 2692 and would urge your favorable recommendation of it.

Thank you for your consideration of this matter.

I would be happy to stand for questions.

HJC  
2-20-92  
Attach # 6

Ks. AVEY, President  
Law Enforcement Training Center  
Hutchinson, Kansas 67504

CLIFF HENDERSON, President-Elect  
Lyon County Sheriff  
Emporia, Kansas 66801

LARRY MAHAN, Vice-President  
Kansas Highway Patrol  
Wichita, Kansas 67212

ALVIN THIMMER, Secretary-Treasurer  
Kansas Peace Officers' Association  
Wichita, Kansas 67201

BOARD OF GOVERNORS  
GOVERNORS

(At Large)  
BILL RICE  
Chief of Police  
Arkansas City, Kansas 67005  
CHARLES RUMMERY  
Chief W.S.U. Police  
Wichita, Kansas 67208  
DENNIS TANGEMAN  
Kansas Highway Patrol  
Topeka, Kansas 66603  
BOB SCHUMAKER  
Santa Fe R.R. Police  
Topeka, Kansas 66612  
DISTRICT 1  
FRANK P. DENNING  
Johnson Co. Sheriff's Office  
Olathe, Kansas 66202  
DAVE SMALL  
Paola Police Department  
Paola, Kansas 66071  
DARRELL PFLUGHOF  
Kansas Lottery Security  
Kansas City, Kansas 66103  
DISTRICT 2  
DANA KYLE  
Riley County Police Department  
Manhattan, Kansas 66502  
RANDALL THOMAS  
Lyon County Sheriff's Office  
Emporia, Kansas 66801  
DOUGLAS PECK  
Kansas Highway Patrol  
Emporia, Kansas 66801  
DISTRICT 3  
JIM HUFF  
Chief of Police  
Ellsworth, Kansas 67439  
CARL McDONALD  
Dickinson County Sheriff's Office  
Abilene, Kansas 67410  
ALLEN BACHELOR  
Kansas Highway Patrol  
Salina, Kansas 67401  
DISTRICT 4  
LAWRENCE YOUNGER  
Chief of Police  
Hays, Kansas 67601  
JOHN FROSS  
Ft. Hays State University Police  
Hays, Kansas 67601  
FRANK REESE  
Ellis County Sheriff's Office  
Hays, Kansas 67601  
DISTRICT 5  
KENT NEWPORT  
Holcomb Police Department  
Holcomb, Kansas 67851  
CAMERON HENSON  
Kansas Bureau of Investigation  
Liberal, Kansas 67901  
RAY MORGAN  
Kearny County Sheriff's Office  
Lakin, Kansas 67860  
DISTRICT 6  
DAVE SMITH  
Hoisington Police Department  
Hoisington, Kansas 67594  
JIM DAILY  
Barton County Sheriff's Office  
Great Bend, Kansas 67530  
DICK BURCH  
Kansas Law Enforcement Training Ctr.  
Hutchinson, Kansas 67504  
DISTRICT 7  
DELBERT FOWLER  
Chief of Police  
Derby, Kansas 67037  
BOB ODELL  
Cowley County Sheriff  
Winfield, Kansas 67156  
LARRY WELCH  
Ks. Law Enforcement Training Center  
Hutchinson, Kansas 67504  
DISTRICT 8  
ALLEN FLOWERS  
Chief of Police  
Coffeyville, Kansas 67337  
LOWELL PARKER  
Greenwood County Sheriff  
Eureka, Kansas 67045  
TINY WILNERD  
Ks. Dept. Wildlife & Parks  
Howard, Kansas 67349  
SERGEANT-AT-ARMS  
KENNETH MCGLEASON  
Kansas Highway Patrol  
Wakeeney, Kansas 67472

# Kansas Peace Officers' Association

INCORPORATED

TELEPHONE 316-722-7030  
FAX 316-729-0655  
P.O. BOX 2592 • WICHITA, KANSAS 67201



February 20, 1992  
House Bill No. 2692

Mr. Chairman and Members of the Committee:

My name is Helen Stephens, representing the 3,000 members of the Kansas Peace Officers Association.

KPOA supports passage of HB 2692. Access to this information will give teachers and administrators the complete background of a child and will give them, in some cases, the tools necessary to plan his particular educational needs. Although one would think parents would inform schools of special circumstances, they do not.

Please support passage of #2692.

Thank you for the opportunity to speak to you today.

*In Unity There Is Strength*

HJC  
2-20-92  
Attach #7

BLUE VALLEY USD #229

by

HELEN STEPHENS

Mr. Chairman and Members of the Judiciary Committee:

I am here to support HB 2692 on behalf of Blue Valley USD #229.

Communication between SRS, law enforcement and schools is vitally important to the overall education and protection of our young people.

Although we have children for 7 hours a day, it is the other 17 hours that influence a child's attitudes, behaviors, and his success at learning. If a child is having difficulty at home or with the law, it can only help his development if the educational institution he attends has this information available to plan his educational needs and has an understanding of those other 17 hours.

We ask your favorable consideration of HB 2692.

Thank you for this opportunity.

HJC  
2-20-92  
Attach 8

PRESENTATION TO THE  
HOUSE JUDICIARY COMMITTEE

BY

CONNIE L. WELSH, Ph.D.  
PRINCIPAL, ANTIOCH MIDDLE SCHOOL  
SHAWNEE MISSION PUBLIC SCHOOLS

8200 West 71st Street  
Overland Park, Kansas 66204

913-722-1153 (wk)

913-492-8279 (hm)

THURSDAY, FEBRUARY 20, 1992

REGARDING  
HOUSE BILL 2692

HJC  
2-20-92  
Attach #1



My name is Connie Welsh and I appreciate the opportunity to speak today in favor of House Bill No. 2692 which was developed by the "Special Committee on Children's Initiatives". I am a career educator who started teaching in 1967 and have worked in both private and public schools at the elementary and secondary levels. For the past 16 years I have been a school principal. Currently, I am principal of Antioch Middle School in the Shawnee Mission #512 Public Schools System. Additionally, I am the mother/step-mother of six children, all who have graduated from Kansas public schools. The youngest is a senior at Kansas State University. Therefore, my life's focus is and always has been on what is in the best interest of children. The current legislation that restricts the flow of information between law enforcement agencies and the school districts is in direct conflict with the support we in education would like to provide to children.

To illustrate the need for a change in the current state statues like K.S.A. 38-1608, I'd like to share with you some examples of situations that I have dealt with in just the last two months.

(1) On January 2, 1992, a student assaulted another student during a passing period at school. The Overland Park Police Department was called as is procedure for an incident of this nature. Because the student had a record and was on a list of Johnson County gang members, he was arrested and taken to the police department. We were provided with no official information about this student from the point of the arrest until he returned to school on January 24, 1992. In visiting with him, we discover that he has been in Juvenile Detention

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and is currently on probation. As a part of his release, he had to cooperate with the district attorney's office and provide names of other gang members. We find out indirectly, that some of those names were of students in our school. As you can quickly see, our ability to facilitate a successful transition for this student back into the school environment was impeded with the restriction of information. Additionally, we didn't have the time needed to ensure that the school environment was safe for the rest of the student population.

(2) On December 18, 1991, a student set fire to a ping pong ball, which exploded, and burned the carpet in the school library. The police arrested him and he was charged. Again, the student was placed on probation and just returned to school after a given period of time. The school was the injured party and we received no feedback on what the situation was. If we had been provided appropriate information, we could have assisted him in re-entry to school and supported that probation effort.

(3) On January 29, 1992 two students got in a major fight during class and injuries occurred. As a part of the police report, we discover that one of the students, who had delivered the bulk of the injuries, was on probation from Arizona with a Johnson County probation officer assigned to him. This student was a listed member of the Crips gang and had been trained in defense techniques that made him very dangerous when provoked. Again, if we had known that the student was on probation, we could have provided appropriate orientation and counseling that could possibly have prevented not only

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this fight but the destruction of a student's reputation in his new environment.

(4) Educators are required by law to report suspected cases of child abuse and take this responsibility seriously. We truly want to ensure that the student is safe. Once the investigation begins, we never receive reports on what is occurring and often the student is removed from school without our knowing if he/she is going to return. We have had students on our attendance rolls for weeks listed as absent when they had been moved to a foster placement at another location. Unless we hear from the other school, we don't know to drop them. This is very difficult because of the school's need to be accountable for student attendance as well as emotionally, we care about that student and need to know that they are alright.

I could go on and on with specific examples, but hope that these show why it is important to support the need for easing the restrictions of information between law agencies and the school system. As educators, we are required professionally and legally to protect, care for, and educate the students in our charge. We accept that charge, but need your help. Therefore, I hope you will give favorable consideration to the passing of House Bill No. 2692 so that we will have the information needed to protect the welfare of all children.

Thank you for your time and attention to this very important matter.

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DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
Donna Whiteman, Secretary

Committee on the Judiciary  
John M. Solbach, Chairperson

February 20, 1992  
Testimony in Regard to H.B. 2692

AN ACT concerning children; relating to disclosure of certain records; amending K.S.A. 38-1508 and K.S.A. 1991 Supp. 38-1506, 38-1507, 38-1607, and 38-1608 and repealing the existing sections.

Mr. Chair, Members of the Committee, I am appearing today in opposition to H.B. 2692 in its current form. While the Department supports making information from confidential records available to those to whom the care or treatment of children is entrusted, we believe this bill does not provide adequate protection for the privacy of children and their families. As a result, it may render Kansas ineligible for federal assistance.

Purpose of the Bill:

The bill amends the Kansas Code for Care of Children and the Juvenile Offenders Code to allow greater access to court official files and authorizes the Secretary of SRS to provide access to any individual, or public or private agency having custody of a child under court order or who is providing social, educational, medical, mental health, advocacy or other professional services to the child.

Background:

When Kansas statutes regarding confidentiality of records concerning alleged child abuse and neglect were written they followed closely the requirements of the federal Child Abuse and Neglect Prevention and Treatment Act (CAPTA), 42 USC 5101 et seq. CAPTA requires at 5106a(b)(4) that Kansas "Provide for methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians." as one criteria for eligibility. The regulations promulgated pursuant to this Act set forth in detail those entities with whom the state may, by statute, authorize the agency to share information. Within the approved categories, however, considerable discretion is allowed. CAPTA limitations on access to confidential information are not arbitrary but are rooted in well established constitutional and societal values about families' right to privacy as well as the need for protecting children. A copy of the relevant federal regulations, 42 CFR 1340.14(i) is attached for your convenience. Please note that the regulations allow the child who is the subject of the record access, while Kansas law does not.

The issues addressed by this bill are both important and complex. There are compelling but often competing interests involved. While it is essential that necessary information be provided, protecting a child and the child's family from invasion of their privacy also deserves careful consideration. Under the federal regulations, further dissemination of the information is barred and protection is required for the identity of reporters and others who provide information to investigators or caregivers.

There is also a need for coordination of the provisions of the proposed legislation with the statutes and regulations pertaining to the licensed

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practice of social work in Kansas. Without careful consideration and clear direction on this issue, Department staff could easily find themselves penalized by the Behavioral Sciences Regulatory Board for having exercised discretion authorized under the statutes modified by this bill.

Out of concern that the proposed language might jeopardize the State's eligibility for certain Federal grants, the Department requested an unofficial opinion from the federal Region VII office of the Administration for Children and Families, Department of Health and Human Services in Kansas City, Missouri. ACF sought clarification by phone from the Washington office of the National Center for Child Abuse and Neglect. Although the interpretation was non-binding and was not formally submitted to regional attorneys for an opinion, both the regional Child Welfare Specialist and NCCAN concluded that the bill, if passed in its current form, would make Kansas ineligible.

It may be that the time has again come for the State to consider who needs to know and what they need to know concerning child abuse and neglect records. Indeed, changes in the existing statutes have produced some unevenness of language and ambiguity of intent. For example: the requirement that recipients of confidential information meet the confidentiality standards of the statutes and limitations on further disclosure are not uniformly prescribed either in the existing statutes or in the proposed bill.

The Department believes that a comprehensive and detailed look at the issue of confidentiality is the best way to approach this issue. We agree with the report of the Special Committee on Children's Initiatives at p. 56, which recommended that "the confidentiality requirements of both state and federal laws and regulations be examined" to allow exchange of client information between public and private providers serving families.

Effect of passage:

The effect of passage of the bill as it is currently constructed is difficult to predict. Some of the apparent intended recipients of information can already receive information under current law. Other categories, such as "educational" or "advocacy professional services" appear to be so broad as to open confidential records to virtually anyone.

Of great concern, it appears that passage of this bill would render the State ineligible for over \$420,000 in Federal child abuse and neglect grants annually.

Recommendation:

The Department supports making information available to those to whom the care or treatment of children is entrusted. We must, however, ask that H.B. 2692 as written not be recommended for passage.

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protection, the State must provide emergency services to protect the child's health and welfare. These services may include emergency caretaker or homemaker services; emergency shelter care or medical services; review by a multidisciplinary team; and, if appropriate, criminal or civil court action to protect the child, to help the parents or guardians in their responsibilities and, if necessary, to remove the child from a dangerous situation.

(g) *Guardian ad litem*. In every case involving an abused or neglected child which results in a judicial proceeding, the State must insure the appointment of a guardian ad litem or other individual whom the State recognizes as fulfilling the same functions as a guardian ad litem, to represent and protect the rights and best interests of the child. This requirement may be satisfied: (1) By a statute mandating the appointments; (2) by a statute permitting the appointments, accompanied by a statement from the Governor that the appointments are made in every case; (3) in the absence of a specific statute, by a formal opinion of the Attorney General that the appointments are permitted, accompanied by a Governor's statement that the appointments are made in every case; or (4) by the State's Uniform Court Rule mandating appointments in every case. However, the guardian *ad litem* shall not be the attorney responsible for presenting the evidence alleging child abuse or neglect.

(h) *Prevention and treatment services*. The State must demonstrate that it has throughout the State procedures and services deal with child abuse and neglect cases. These procedures and services include the determination of social service and medical needs and the provision of needed social and medical services.

(i) *Confidentiality*. (1) The State must provide by statute that all records concerning reports and reports of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense.

(2) If a State chooses to, it may authorize by statute disclosure to any or all of the following persons and agencies, under limitations and procedures the State determines:

(i) The agency (agencies) or organizations (including its designated multidisciplinary case consultation team) legally mandated by any Federal or State law to receive and investigate reports of known and suspected child abuse and neglect;

(ii) A court, under terms identified in State statute;

(iii) A grand jury;

(iv) A properly constituted authority (including its designated multidisciplinary case consultation team) investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of a report;

(v) A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected;

(vi) A person legally authorized to place a child in protective custody when the person has before him or her a child whom he or she reasonably suspects may be abused or neglected and the person requires the information in the report or record in order to determine whether to place the child in protective custody;

(vii) An agency authorized by a properly constituted authority to diagnose, care for, treat, or supervise a child who is the subject of a report or record of child abuse or neglect;

(viii) A person about whom a report has been made, with protection for the identity of any person reporting known or suspected child abuse or neglect and any other person where the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of such person;

(ix) A child named in the report or record alleged to have been abused or neglected or (as his/her representative) his/her guardian or guardian ad litem;

(x) An appropriate State or local official responsible for administration of the child protective service or for oversight of the enabling or appropriating legislation, carrying out his or her official functions; and

(xi) A person, agency, or organization engaged in a bonafide research or evaluation project, but without infor-

mation identifying individuals named in a report or record, unless having that information open for review is essential to the research or evaluation, the appropriate State official gives prior written approval, and the child, through his/her representative as cited in paragraph (1) of this section, gives permission to release the information.

(3) If a State chooses, it may authorize by statute disclosure to additional persons and agencies, as determined by the State, for the purpose of carrying out background and/or employment-related screening of individuals who are or may be engaged in specified categories of child related activities or employment. Any information disclosed for this purpose is subject to the confidentiality requirements in paragraph (1)(1) and may be subject to additional safeguards as determined by the State.

(4) Nothing in this section shall be interpreted to prevent the properly constituted authority from summarizing the outcome of an investigation to the person or official who reported the known or suspected instances of child abuse or neglect or to affect a State's laws or procedures concerning the confidentiality of its criminal court or its criminal justice system.

(5) HHS and the Comptroller General of the United States or any of their representatives shall have access to records, as required under 45 CFR 74.24.

[48 FR 3702, Jan. 26, 1983, as amended at 50 FR 14887, April 15, 1985; 52 FR 3995, Feb. 6, 1987]

#### § 1340.15 Services and treatment for disabled infants.

(a) *Purpose*. The regulations in this section implement certain provisions of the Child Abuse Amendments of 1984, including section 4(b)(2)(K) of the Child Abuse Prevention and Treatment Act governing the protection and care of disabled infants with life-threatening conditions.

(b) *Definitions*. (1) The term "medical neglect" means the failure to provide adequate medical care in the context of the definitions of "child abuse and neglect" in section 3 of the Act and § 1340.2(d) of this part. The term

"medical neglect" includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition.

(2) The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's (or physicians') reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's (or physicians') reasonable medical judgment any of the following circumstances apply:

(i) The infant is chronically and irreversibly comatose;

(ii) The provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) The provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

(3) Following are definitions of terms used in paragraph (b)(2) of this section:

(i) The term "infant" means an infant less than one year of age. The reference to less than one year of age shall not be construed to imply that treatment should be changed or discontinued when an infant reaches one year of age, or to affect or limit any existing protections available under State laws regarding medical neglect of children over one year of age. In addition to their applicability to infants less than one year of age, the standards set forth in paragraph (b)(2) of this section should be consulted thoroughly in the evaluation of any issue of medical neglect involving an infant older than one year of age who been continuously hospitalized since birth, who was born extremely prema-

DAVID R. CORBIN  
REPRESENTATIVE, 75TH DISTRICT  
BUTLER COUNTY



COMMITTEE ASSIGNMENTS  
MEMBER: ENERGY AND NATURAL RESOURCES  
TRANSPORTATION  
ADMINISTRATIVE RULES AND REGULATIONS

TOPEKA

HOUSE OF  
REPRESENTATIVES

Statement of Representative David R. Corbin  
Before the House Judicial Committee  
on 20 February 1992, in Support of H.B. 2841

Thank you, Mr. Chairman, and members of the committee. I am Representative David R. Corbin. I appear here in support of House Bill 2841.

I am here to affirm to you that cattle rustling is alive and well in Kansas. In fact, there are so many livestock thefts in Kansas right now that law enforcement officials at both the state and local levels seem unable to cope with the ever increasing numbers.

In Kansas in 1991 the theft of 885 head of livestock was reported. Of this number, 194 head were returned. In Butler County alone, 163 head were stolen last year, with an estimated value of more than \$80,000.00

I believe that House Bill 2841 can help law enforcement by increasing the penalty from a Class D or Class E felony to a Class C felony.

Another very important feature of this bill is to require the forfeiture of the property used in the stealing of livestock.

Attached is a copy of a report of the number of stray and stolen animals in Kansas for the years from 1976 through 1991.

Attachment

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STRAY AND STOLEN ANIMAL REPORT

	<u>Total no. head reported missing</u>	<u>Total no. head returned to owner or recovered</u>	<u>Total no. of cases handled</u>
11/1/76 to 11/1/77	1205	278	314
11/1/77 to 11/1/78	1617	361	395
11/1/78 to 11/1/79	1809	405	330
11/1/79 to 11/1/80	2344	594	404
11/1/80 to 11/1/81	1299	366	323
11/1/81 to 11/1/82	1842	646	400
11/1/82 to 11/1/83	2057	724	417
11/1/83 to 11/1/84	1483	454	308
11/1/84 to 11/1/85	1510 + 714 pigs	675	365
11/1/85 to 11/1/86	1803 + 316 hogs	460	385
11/1/86 to 11/1/87	1129 + 294 hogs	292	328
11/1/87 to 11/1/88	1290 + 4 goats 5 sheep	135	311
11/1/88 to 11/1/89	992 + 4 sheep 2 horses	201	275
11/1/89 to 11/1/90	666 + 10 pigs	185	226
11/1/90 to 11/1/91	881 + 2 hogs 2 horses	194	276

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*16 ↓*  
*49 ↓*  
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*209*  
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*↑ 50*

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DON M. REZAC  
REPRESENTATIVE, SIXTY-FIRST DISTRICT  
PARTS OF POTTAWATOMIE,  
WABAUNSEE, MARSHALL & LYON COUNTIES  
(913) 535-2961



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
CHAIRMAN: PENSIONS, INVESTMENTS AND BENEFITS  
CHAIRMAN: KANSAS PUBLIC EMPLOYEE  
RETIREMENT STUDY COMMISSION  
VICE CHAIRMAN: AGRICULTURE  
MEMBER: ENERGY AND NATURAL RESOURCES  
TRANSPORTATION

TESTIMONY ON HB 2841  
HOUSE JUDICIARY COMMITTEE  
February 20, 1992

Thank you, Mr. Chairman and members of the committee.

I am Representative Don Rezac, and I am also Senior Partner of Rezac Land and Livestock Company. I am here today to testify in favor of HB 2841.

As you can see by the news article, "Cattle rustlers arrested in Pottawatomie County," I have some personal experience with current-day cattle rustling. This bill does put theft of livestock into a Class C felony. The more important part of the bill is forfeiture of equipment used to steal the livestock. It will take the thieves a little longer to replace the equipment, such as a pickup and horse trailer, than it does take to get out of jail.

The theft of livestock is a more serious crime today because the stolen property can be sold at full value any place across the state. If I walk into your house and steal your TV, in order to get cash for this TV, I would have to take it to a pawn shop or a fence and probably wouldn't get ten cents on the dollar.

If I steal your \$500 steer, when I take it to the auction or sale barn, the stolen property brings current value. That is why the theft of livestock is becoming so popular.

I'll be happy to answer any questions.

DON REZAC

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February 27, 1991

## Cattle rustlers arrested in Pottawatomie County

The art of cattle rustling seems to be alive and well in Northeastern Kansas.

According to Detective Gerald Schmidt of the Pottawatomie County Sheriff's Department, three separate incidences have occurred in the county and two suspects have been arrested and charged.

Brian Weller, a 25 year old Wamego man was arrested Feb. 15 and charged with felony theft. Weller is being held on \$50,000 bond.

Robert Hensley, 18 years old, Manhattan, was arrested Feb. 22 and charged with two counts of felony theft and is being held on \$10,000 bond.

According to Schmidt, the two are being charged with the thefts of two steers from the Rezac Land and Livestock Company, Emmett; five calves from Harold

McCarter, Wamego; and a steer from Dale Northup, also of Wamego.

The two were apprehended Feb. 15 by Lyon County officers as they were attempting to sell five head of cattle reported to be stolen in Bourbon County.

Schmidt said that statements made by Weller and Jay Rezac led to Weller's arrest.

"This is a case of old-fashioned cattle rustling," said Schmidt. "They just went out to the pastures in the middle of the night, loaded up and drove away. Then they took the cattle to local sale barns, where proof of ownership is not required, and sold them off. We think they had been in operation for approximately two months. We've been able to trace sale to the Manhattan Livestock Co., Inc.; J.C. Livestock Sales, Inc., Junction City; and to

sale barns in Emporia and Herington."

Charges against the two may also be pending in Wabaunsee and Bourbon counties.

In two other unrelated incidences, authorities have arrested another cattle rustler and two other suspects are still on the loose.

Raymond Atwood, a 20 year old Auburn man, was arrested by Shawnee County officers while attempting to cash a check from the Onaga Sale Barn at an Auburn bank.

Atwood has been charged with one count of felony theft in connection with the theft of 14 head of mixed herefords in Marion County.

According to Schmidt, he and Detective Brad Burgess were summoned to the Onaga Sale

Barn Feb. 14 by the owners when they became suspicious of Atwood. Schmidt and Burgess investigated and, at that time, believed Atwood's story of having purchased the cattle at another sale barn and that he was simply trying to turn a profit.

Later that week, Schmidt received a report from Marion County officials regarding the theft. Atwood was then tracked to Auburn and was arrested.

Another suspect in the Marion County theft remains at large. The cattle were returned to their owner.

According to Schmidt, both state and local authorities are still trying to nab a man using the name and identification of Joe A. Lemons.

For the past two months, the suspect has been running a scam on farmers and ranchers in the state in which he purchases

breeding stock with hot checks.

Schmidt said since Lemons has crossed so many county lines, the Kansas Bureau of Investigation is now assisting.

"There are warrants out for his arrest in 17 different counties now," said Schmidt. "The suspect always purchases breeding stock and almost always prefers to meet with the farmer or owner during early evening hours."

The suspect is a white male in his late 30's to early 40's. He is approximately 5 ft. 10 in. tall and weighs about 180 lbs. Identifying features include sandy-colored hair and one eye which is fixed.

In Pottawatomie County, Lemons is wanted in connection with the theft of 11 Duroc Gilts from Good Farms, Olsburg.

Anyone who has seen this man or with information that could lead to his arrest is asked to contact their local county sheriff's department or the KBI.

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# PUBLIC POLICY STATEMENT

## HOUSE COMMITTEE ON JUDICIARY

### RE: H.B. 2841 - Establishing penalties for livestock theft

February 19, 1992  
Topeka, Kansas

Presented by:  
Bill Fuller, Assistant Director  
Public Affairs Division  
Kansas Farm Bureau

**Chairman Solbach and members of the Committee:**

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. We certainly appreciate this opportunity to testify on behalf of the farmers and ranchers who are members of the 105 County Farm Bureaus in Kansas.

Cattle rustling has been an exciting component in stories, books and movies about the "old west" for many decades. Unfortunately, cattle rustling is still big business in many areas. Modern-day rustlers using radio communications, 4-wheel drive pick-ups, stock trailers and portable catch pens can make good money and do cause financial hardships on stockmen.

H.B. 2841 is a harsh bill for a serious crime! In Section 1, the bill establishes the theft of livestock as a Class C felony. Adopted Farm Bureau policy suggests a Class D felony. We have no problem with the higher classification.

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Section 2 of the proposal makes the property used, the proceeds gained and any property acquired in the commission of livestock theft to be subject to forfeiture. Property is defined as real, personal, tangible or intangible. This authority to take property will get the attention of potential rustlers and put active rustlers out of business. A rustler could loose his pick-up truck, stock trailer, portable catch pen, horse, stock dog, and even his ranch if the stolen livestock is confined on the premises.

We believe passage of H.B. 2841 will make a difference in reducing livestock theft. We support strong penalties for this serious crime. Thank you!

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February 20, 1992

Good afternoon, Ladies and gentleman of the judiciary committee. I am Brad Lewis, President of the Butler County Livestock Association. I'm here today on behalf of our membership and victims of cattle theft to testify on House Bill 2841.

In 1991, 163 head of cattle were stolen from ranches in Butler County. A conservative dollar value of the cattle is \$80,382.56. The reason I said conservative dollar value is that I used the Butler County Sheriff's stolen animal report which has a very brief description of the stolen animal. Some of these cattle were breeding stock whose value is far greater than the price at a local sale barn. The actual number of stolen and missing cattle is much greater than stated above. Some people never call the sheriff because they feel the cattle just got out or the calves are in tall grass and brush and they will show up later. As of today, only three people have been charged for cattle theft; two minors and one adult.

In December, several victims called me about the large number of thefts and were needing the assistance of the Butler County Livestock Association. The board of directors called a meeting with the sheriff's office and the county attorney. The outcome of this meeting was a task force made up of Chuck Fuson, assistant county attorney, Paul Seely owner of El Dorado Livestock Sale Barn, Representative David Corbin, and the Board of Directors.

The task force met and discussed the current penalties for cattle theft being a Class E Felony. The sentence for this is one to three years with a presumption of parole for first time offenders. The presumption of parole is where we strongly disagree with the current law. One individual in Butler County has been charged with stealing from twenty three different occasions last year. Since this is the first time he has been charged, there is a good chance he will not spend any time for stealing \$40,964.98 of inventory from one family's business (amount he received from sale barns for the stolen cattle). The task force looked at several laws currently on the books and decided to recommend modeling a livestock theft law after the Grain Embezzlement Law. This man is currently out on own recognizance bond. His victims see him driving around the county in a pickup newer than most of us can afford that was paid for by selling OUR cattle. He could, if he so desired, continue to steal more cattle because he still has possession of his pickup, trailer, and horse. All of these are the "tools of the trade" of a cattle rustler. We feel it is imperative to impound the "tools of the trade" upon their arrest and after the successful conviction, sell such equipment! These recommendations were made to Representative David Corbin and House Bill 2841 is the result of our efforts and that of Representative David Corbin.

The Butler County Livestock Association Board Of Directors have also inquired into the investigations of cattle thefts. We are greatly disappointed with the lack of available manpower our sheriff has. We are even more disappointed with the lack of willingness of

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The Brand Commissioners to act aggressively in the investigations. The victims of cattle theft spend their time and money going to sale barns around the state gathering hard evidence and turned this information to the sheriff's office and the Brand Commissioner and no arrest was made. For whatever reason, one individual turned himself in to his attorney and, after consultation, took him to the sheriff. We feel the crimes he committed would still be unsolved today if he had not turned himself in.

The Kansas Health Department is currently labored with the politically popular Puppy Mill problem. We do agree the Puppy Mill's do need to be policed, but BEEF is one of the largest businesses in the State Of Kansas. The problem of cattle theft deserves more attention than we are currently receiving. In the state of Kansas, whenever a cow is sold in a sale barn twelve cents is collected and turned in to the Health Department for the policing of our industry. This money is being spent on the Puppy Mills! Ladies and gentleman, you must find a way to make the Puppy Mill Industry self supporting!

According to the Livestock Brand Division, for the state of Kansas, 495 head of cattle were reported stolen in 1991. From this large number, only 43 animals were recovered and few have been charged. There were also 388 head reported just as missing. Of these numbers, 194 head were returned to the owner or recovered. These numbers are artificially low because some people never file a report. In this day and age of computers, computer modems, and fax machines, we are still fighting cattle rustlers like we were fifty years ago. If a rancher turns in a stolen cattle report to the sheriff the morning an animal is missing, it will probably be two weeks before the report gets to the sale barns so they can keep an eye out for the missing livestock. In that length of time, these animals have been sold and are out on grass or hanging from a hook at some meat packers.

There is another problem in are current system: the recovery of stolen animals or money to the victims. One of our victims had cattle stolen in July, August, and again in October and has not recovered any money as of this date. A cattle thief can get paid the day he sells the stolen cattle: the rightful owner is wondering if he will ever get any money. This particular victim is in his early thirties, has a wife and four young boys to provide for. He has had money stolen from his back pocket that would have been used to provide for his family. He also would have been paying taxes on this income; you can bet the cattle rustler won't report his income.

We need House Bill 2841 desperately. Our ranchers cannot "lock the door" at night to protect his business inventory. When cattle are stolen, we have no method in our markets to raise the price on the remainder of our inventory to make up for the lost. We need your help in putting these people out of business.

If you need any additional information or help of any kind, please call me.

*Brad Lewis*  
Brad Lewis  
President,  
Butler County Livestock Association  
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A young man southwest of El Dorado stole some cattle and other property. Since he was a juvenile, he spent eight months in Topeka for evaluation. He has been out on probation.

When he came home, he began stealing again. He has already confessed to stealing and selling them. When he went for his preliminary hearing, the Assistant County Attorney requested bond at \$2,500. The Judge lowered the bond to \$1,500 and released him on his signature to await trial. His mother requested he be kept in jail because he is difficult to handle.

It appears that we are not requesting enough bond for the offense. Cattle are expensive to buy or raise. The profit is soon depleted when some of them are stolen. Dollar per dollar the punishment should be equal to the value of the animals.

Those who steal should learn to respect the property of others.

Logan Evenson lost eight head of cattle during the fall of 1991. He loaded his remaining cattle and sold them. Now he's out of the cattle business. In the last four years, he has lost a tractor, a gooseneck trailer, fence posts and wire.

Jim Fanning, another neighbor, lost five head of cattle in 1991.

HJC  
2-20-92  
Attach #15

I'm Arlan Stackley and operate a ranch with my wife and son north of El Dorado in Butler County. The majority of our operation is within a four mile radius, with one pasture located eight miles away.

In the fall of 1990 we lost one 600 pound calf from a pasture at the north end of our property and two 450 pound calves from the pasture eight miles from our headquarters.

We check each pasture two times per week. My son and one other cowboy alternate checking pastures. If one of the miscounts, hopefully the other one will catch the mistake. We do not have a set time each week to check pastures and in 1991 we were fortunate of not losing any cattle to theft.

I described our method of operation to illustrate the impossibility of being able to check each animal everyday, which leaves us subject to theft.

If we are short cattle we check neighboring pastures trying to locate them and a day or two may pass before we notify the sheriff of the loss. This gives the thief plenty of lead time to dispose of the cattle. If the cattle are not hauled out of the area, there are numerous sale barns and small slaughter plants located close by, to make it easy to dispose of the stolen cattle.

The livestock industry is very important to Kansas and without stiffer penalties for livestock theft, it appears this lucrative thievery will continue unchecked.

It is my understanding a few years ago, a person convicted of livestock theft could not be paroled, but now parole is at the judges discretion. House Bill No. 2841 will make livestock theft a class C felony and subject contraband property to forfeiture. I feel this would be a deterrent to future livestock thefts.

Thank you for letting me appear before you and present my feelings on the matter. I appreciate it very much.

Respectfully,

Arlan Stackley  
Route 3, Box 148  
El Dorado, KS. 67042  
316-321-9269

HJC  
2-20-92  
#Hoch #16





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STATEMENT OF THE  
KANSAS LIVESTOCK ASSOCIATION  
TO THE  
HOUSE JUDICIARY COMMITTEE  
REPRESENTATIVE JOHN SOLBACH, CHAIRMAN  
IN SUPPORT OF  
HB 2841  
PRESENTED BY  
MIKE BEAM, EXECUTIVE SECRETARY,  
COW/CALF STOCKER DIVISION  
FEBRUARY 20, 1992

*The Kansas Livestock Association (KLA) is a voluntary trade organization with approximately 9,000 members from across the state. These members are predominately cattle producers. Many operate diversified farming and ranching businesses.*

*Mr. Chairman and committee members, I'm Mike Beam with the Kansas Livestock Association and we are here today to support House Bill 2841. I want to thank Representative Corbin and the other sponsors for introducing the bill.*

*Livestock theft, or cattle rustling, has always been an issue with ranchers. In fact, it's said there were two issues which caused a group of cattlemen to meet in Emporia in 1894 to start an organization now called the Kansas Livestock Association. One concern was railroad shipping rates. The other was cattle theft.*

*Times have changed and virtually all cattle are transported by motor carriers. The issue of theft, however, still haunts our industry and we hope this legislature will be willing to make some changes in the law to help curtail the problem.*

H-JC  
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Attach #17  
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I've attached a statistical report from the Brand Division of the Kansas Animal Health Department. This is the office which registers brands, keeps records of missing livestock, and assists local law enforcement agencies in investigations.

The report indicates they were notified of thefts involving 497 livestock in 1991. (Total number of thefts could be more; this is just cases reported to the department). This is a substantial increase over the last few years.

With conservative estimates, the value of this 497 head would be about \$250,000. On a statewide annual basis it might not sound like a major problem. It is a problem, however, when the theft hits you individually. If I as a producer have seven cow-calf pairs stolen (which can be done with a standard stock trailer and pick-up truck), it's a big financial blow to me. There is not much margin in the cattle business and losing 7 animals in the example I have described really hurts the bottom line. In many instances, the livestock are mortgaged and the owner still has to pay the note.

The first aspect of the bill defines a livestock theft and classifies it as a Class C felony. We certainly support this change. Livestock theft investigators will tell you it's difficult to catch a thief. Once one is convicted we want some confidence the thief will be adequately punished for the crime. It can be very discouraging for a stock owner to have a person steal from their herd, be convicted, and be out on the streets in a few weeks.

Sections 2-7 of the bill stipulate that law enforcement agencies may confiscate property used in stealing livestock. Proceeds or gains made from the crime are also subject to forfeiture.

In many cases, the "professional" cattle thief has a late model truck and trailer to enable the person in his/her occupation. Let's let the law enforcement agencies confiscate this property. This may offset part of the expense of the investigations and take the tools of the trade away from the criminals.

To close I'd like to thank you, Mr. Chairman and committee members, for considering this legislation. I hope we can work together to pass legislation this year to help address the livestock theft problem. I'd be happy to respond to any questions or comments.

HJC  
2-20-92  
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NUMBER OF ANIMALS REPORTED MISSING, TAKEN UP OR STOLEN

Period	BRANDED ANIMALS				ANIM NOT BRANDED			
	Number Missing	Number Returned	Number Stolen	Number Recovered	Number Missing	Number Returned	Number Stolen	Number Recovered
11-1-81 to 11-1-82	920	372	463	185	198	72	261 (160 hogs)	17
11-1-82 to 11-1-83	865	409	419	118	186	100	587	97
11-1-83 to 11-1-84	863	324	260	17	159 (Incl. 1 hog)	44	201 (Includes 15 hogs)	69 (Includes 15 hogs)
11-1-84 to 11-1-85	792	315	251	123	209	100	258 + 714 pigs	137
11-1-85 to 11-1-86	1103	371	352	14	168	69	180 + 316 hogs	6 hogs
11-1-86 to 11-1-87	618	251	196	17	183	10	132 + 294 hogs	14
11-1-87 to 11-1-88	513	76	356	43	122 4 goats	7	299 5 sheep	9
11-1-88 to 11-1-89	494	124	297	48	107	25	94 4 sheep/ 2 horses	4
11-1-89 to 11-1-90	240	120	193	37	120	9	113 + 10 pigs	19
11-1-90 to 11-1-91	243	92	386	30	145	59	111 includes 2 hogs 2 horses	13

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