

Approved: WREW 7/22/92
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Senator Wint Winter Jr. at
10:05 a.m. on February 19, 1992 in room 514-S of the Capitol.

All members were present.

Committee staff present:
Mike Heim, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:
Donna Whiteman, Secretary of the Kansas Department of Social and Rehabilitation Services
Robert Sue McKenna, Kansas Department of Social and Rehabilitation Services
James Clark, Kansas County and District Attorneys Association
Jamie Corkhill, Kansas Department of Social and Rehabilitation Services

Chairman Winter opened the meeting by presenting a request from the Kansas Human Rights Commission for introduction of legislation to resolve the conflicts remaining from passage of previous legislation.

Staff also requested introduction of additional bills to resolve additional statutory conflicts due to passage of previous legislation.

Senator Bond moved to introduce the conflict resolution bills with direct referral to the Committee of the Whole, and requesting they be placed on the Consent Calendar. Senator Morris seconded the motion. The motion carried.

Chairman Winter presented a request from President of the Senate Burke for introduction of a bill to decriminalize the taking of pictures of puppy mills. The request would remove the felony penalty of taking these pictures.

Senator Bond moved to introduce the bill as requested. Senator Feleciano seconded the motion. The motion carried.

Chairman Winter opened the hearings for Child In Need of Care legislation and announced that the bills would be scheduled for an additional hearing in the future.

- SB 536 - notice to SRS before placing child in need of care in secretary's custody. SRS Task Force, Re Proposal No 19.
- SB 588 - child support orders; procedures, supplementing codes for care of children and juvenile offenders. SRS Task Force, Re Proposal No. 19
- SB 688 - juvenile offenders not to include those charged or convicted as an adult in any other state or federal jurisdiction.
- SB 689 - child abuse and neglect amendments

Donna Whiteman, Secretary of the Kansas Department of Social and Rehabilitation Services, stated the Department's philosophy of striving to improve conditions for children and families. They had reviewed the numbers of CINC and juveniles and concluded they must do a better job in managing their caseloads and existing resources. She spoke in support of SB 536, stating SRS does not always have an immediate placement location for children and would require a few hours to arrange for an appropriate solution.

Secretary Whiteman spoke in support of SB 689. She explained that the bill would divide CINC from juvenile offenders, and the CINC would be further divided into two groups-- children in need of protection and children in need of services. She added that all programs and services should be family-focused and community-based, and SB 689 would assist SRS in achieving that aim. Children in need of protection (CINP) would include those instances of allegations of physical and sexual abuse. Children in need of services (CINS) would include children acting out, truancy and other behavioral problems. The focus of services would be on the family and preservation of the family unit.

Secretary Whiteman further stated that SB 689 allows SRS to work with the courts to meet the child's needs. The bill would give added flexibility by being based on the premise that a petition would be filed as a CINS with the capability of upgrading to a CINP. The current practice when there is a question as to the status of a child, is that they are placed in SRS custody and removed from the family and home. She cited results of studies demonstrating that efforts to maintain the family have more positive results.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:05 a.m. on February 19, 1992.

Secretary Whiteman concluded by stating that SB 689 does not alter the category of juvenile offender; that designation would remain the same. (see also ATTACHMENT 4 of minutes dated February 12, 1992)

Roberta Sue McKenna, Kansas Department of Social and Rehabilitation Services, responded to questions from the Committee on SB 689 by stating that the distinctions are based on whether or not the parent is able to deal with certain situations and handle their parental responsibility. SRS is asking for the legal power to work with the family outside of the system. No court petition is necessary if CINS cases; court intervention occurs only if the level is escalated to CINP.

The hearing for SB 689 was recessed and will be reconvened at a later date. The Committee noted they would like additional time to study the proposal of SB 689 in greater detail.

James Clark, Kansas County and District Attorneys Association, testified in support of SB 688, section 1. (ATTACHMENT 1)

Jamie Corkhill, Kansas Department of Social and Rehabilitation Services, continued her review of SB 588 begun on February 17, 1992. (see ATTACHMENT 4 of minutes dated February 17, 1992) She stated the fiscal impact would yield more efficient actions. The net cost after federal funding would be just over \$82,000 per year. She added, however, that SB 689 was not considered in their fiscal analysis for SB 588. Ms. Corkhill offered an amendment to SB 588 for the Committee's consideration. (ATTACHMENT 2)

The hearings were recessed to a date to be announced.

The Committee turned its attention to SB 508.

SB 508 - court costs to support the law enforcement training center.

Senator Kerr proposed amending SB 508 by designating one dollar into a fund, to be allocated at the discretion of the Law Enforcement Training Commission, for reimbursement for actual training costs of existing programs. The remaining four dollars would go to the law enforcement training center for a period of five years, after which two dollars would be designated to go to the juvenile detention operating fund.

Senator Kerr stated that no statewide juvenile detention system exists. The two dollars would be intended to encourage regional juvenile detention centers. He stated that although there is a critical shortage of beds for juvenile detention centers, there is an even greater need for operating funds to utilize the existing beds.

It was the consensus of the Committee that it be very clear the intention is not to encourage construction but rather to consolidate training programs. It was also the intent of the Committee that the funds created by SB 508 not be added to the general fund.

No action was taken on SB 508 at this time.

Chairman Winter recognized Senator Rock for the purpose of introducing legislation.

Senator Rock moved to introduce a bill to establish a state march. Senator Martin seconded the motion. The motion carried.

The meeting was adjourned at 11:05 a.m.

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Testimony in Support of

SENATE BILL NO. 688

The Kansas County and District Attorneys Association appears in support of Senate Bill No. 688, at least Section 1 of the bill, which contains the specific legislation that we requested.

The purpose of our requested changes is to amend the definition of a juvenile offender to exclude those persons who have previously been convicted as an adult in Kansas or any other state or federal court. There are two purposes behind this request:

1.) To acknowledge that if another jurisdiction has made a determination to treat a youthful offender as an adult, Kansas should acknowledge that decisions; and, more importantly,

2.) After having faced an adult system in another state, such persons are unlikely to be amenable to treatment in our already overburdened juvenile system.

Senate Judiciary Committee
February 19, 1992
Attachment 1

20-302b. District magistrate judges; jurisdiction, powers and duties; appeals. (a) A district magistrate judge shall have the jurisdiction, power and duty, in any case in which

a violation of the laws of the state is charged, to conduct the trial of traffic infractions or misdemeanor charges and the preliminary examination of felony charges. In civil cases, a district magistrate judge shall have concurrent jurisdiction, powers and duties with a district judge, except that, unless otherwise specifically provided in subsection (b), a district magistrate judge shall not have jurisdiction or cognizance over the following actions:

(1) Any action, other than an action seeking judgment for an unsecured debt not sounding in tort and arising out of a contract for the provision of goods, services or money, in which the amount in controversy, exclusive of interests and costs, exceeds \$10,000, except that in actions of replevin, the affidavit in replevin or the verified petition fixing the value of the property shall govern the jurisdiction; nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code or to issue support orders as provided by paragraph (6) of subsection (a);

(2) actions against any officers of the state, or any subdivisions thereof, for misconduct in office;

(3) actions for specific performance of contracts for real estate;

(4) actions in which title to real estate is sought to be recovered or in which an interest in real estate, either legal or equitable, is sought to be established, except that nothing in this paragraph shall be construed as limiting the right to bring an action for forcible detainer as provided in the acts contained in article 23 of chapter 61 of the Kansas Statutes Annotated, and any acts amendatory thereof or supplemental thereto; and nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code;

Social and Rehabilitation Services
Child Support Enforcement

Proposed addition to SB 588.

Senate Judiciary Committee
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Attachment 2 *1/3*

(5) actions to foreclose real estate mortgages or to establish and foreclose liens on real estate as provided in the acts contained in article 11 of chapter 60 of the Kansas Statutes Annotated, and any acts amendatory thereof or supplemental thereto;

(6) actions for divorce, separate maintenance or custody of minor children, except that nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to (A) hear any action pursuant to the Kansas code for care of children or the Kansas juvenile offenders code; (B) establish, modify or enforce orders of support pursuant to the

including, but not limited to, orders of support

Kansas parentage act, K.S.A. 23-451 *et seq.*, 39-718a, 39-718b, 39-755 or 60-1610 or K.S.A. 23-4,105 through 23-4.118, 23-4,125 through 23-4,137, 38-1542, 38-1543 or 38-1563, and amendments thereto; or (C) enforce orders granting a parent visitation rights to the parent's child;

- (7) habeas corpus;
- (8) receiverships;
- (9) change of name;
- (10) declaratory judgments;
- (11) mandamus and quo warranto;
- (12) injunctions;
- (13) class actions;
- (14) rights of majority; and
- (15) actions pursuant to the protection from abuse act.

(b) Notwithstanding the provisions of subsection (a), in the absence, disability or disqualification of a district judge, a district magistrate judge may:

- (1) Grant a restraining order, as provided in K.S.A. 60-902 and amendments thereto;
- (2) appoint a receiver, as provided in K.S.A. 60-1301 and amendments thereto;
- (3) make any order authorized by K.S.A. 60-1607 and amendments thereto; and
- (4) grant any order authorized by the protection from abuse act.

(c) In accordance with the limitations and procedures prescribed by law, and subject to any rules of the supreme court relating thereto, any appeal permitted to be taken from an order or final decision of a district magistrate judge shall be tried and determined *de novo* by a district judge, except that in civil cases where a record was made of the action or proceeding before the district magistrate judge, the appeal shall be tried and determined on the record by a district judge.

(d) Upon motion of a party, the administrative judge may reassign an action from a district magistrate judge to a district judge.

History: L. 1976, ch. 146, § 13; L. 1977, ch. 112, § 2; L. 1979, ch. 92, § 12; L. 1979, ch. 80, § 2; L. 1983, ch. 140, § 3; L. 1984, ch. 39, § 31; L. 1985, ch. 115, § 30; L. 1986, ch. 115, § 32; L. 1986, ch. 137, § 1; L. 1986, ch. 137, § 2; L. 1990, ch. 212, § 1; July 1.