

Approved: WRW 9/5  
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Senator Wint Winter Jr. at 3:35 p.m. on April 9, 1992 at third floor rail of the Capitol.

All members were present except:  
Senators Feleciano, Kerr, Martin, Parrish, Petty and Rock who were excused.

Committee staff present:  
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Chairman Winter called the Committee to order at the third floor brass rail for the purpose of taking action on bills. The Chairman reported on the bills addressed at the April 8 meeting when action was taken as a Subcommittee due to the loss of a quorum.

HB 3105 - retention of original depositions and interrogatories.

Senator Bond moved to adopt the Subcommittee report to recommend HB 3105 favorable for passage. Senator Gaines seconded the motion. The motion carried.

HB 3120 - grant payments to community correction programs.

Senator Morris moved to adopt the Subcommittee report to recommend HB 3120 favorable for passage. Senator Oleen seconded the motion. The motion carried.

HB 3152 - amendments to the corporation code.

Senator Bond moved to recommend HB 3152 favorable for passage. Senator Gaines seconded the motion. The motion carried.

HB 2692 - disclosure of records regarding children in need of care and juvenile offenders.

A balloon of HB 2692, prepared by Mike Heim of Legislative Research Department staff, was presented to the Committee. (ATTACHMENT 1)

Senator Morris moved to amend HB 2692 as presented by the balloon, including a listing of persons allowed to share information, adding explanatory language to exempt penalties by the Behavioral Sciences Regulatory Board for compliance, and changing the implementation date. Senator Gaines seconded the motion. The motion to amend carried.

Senator Morris moved to recommend HB 2692 favorable for passage as amended. Senator Gaines seconded the motion. The motion carried.

HB 2547 - Sub for HB 2547: mobile home parks residential landlord tenant act.

The Committee held limited discussion on the proposed amendment to HB 2547 offered by Senator Daniels. The consensus was to delay action on the bill for further study by the members.

The meeting was adjourned at 3:58 p.m.

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1992

HOUSE BILL No. 2692

By Special Committee on Children's Initiatives

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11 AN ACT concerning children; relating to disclosure of certain re-  
12 cords; amending K.S.A. 38-1508 and K.S.A. 1991 Supp. 38-1506,  
13 38-1507, 38-1607 and 38-1608 and repealing the existing sections.

14

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

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

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

26 (2) the guardian *ad litem* and the parties to the proceedings and  
27 their attorneys;

28 (3) ~~a any individual, or any public or private agency or insti-~~  
29 ~~tution, having custody of the child under court order or providing~~  
30 ~~social, educational, medical, or mental health, advocacy or other~~  
31 ~~professional services to the child or a court-approved advocate for~~  
32 ~~the child; and~~

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

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

41 (c) *Preservation of records.* The Kansas state historical society  
42 shall be allowed to take possession for preservation in the state  
43 archives of any court records related to proceedings under the Kansas

Senate Judiciary Committee  
April 9 (3:35)  
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1 code for care of children whenever such records otherwise would  
2 be destroyed. No such records in the custody of the Kansas state  
3 historical society shall be disclosed directly or indirectly to anyone  
4 for 100 80 years after creation of the records, except as provided  
5 in subsections (a) and (b). Pursuant to subsections (a)(4) and (b), a  
6 judge of the district court may allow inspection for research purposes  
7 of any court records in the custody of the Kansas state historical  
8 society related to proceedings under the Kansas code for care of  
9 children.

10 Sec. 2. K.S.A. 1991 Supp. 38-1507 is hereby amended to read  
11 as follows: 38-1507. (a) All records and reports concerning child abuse  
12 or neglect received by the department of social and rehabilitation  
13 services or a law enforcement agency in accordance with K.S.A. 38-  
14 1522 and amendments thereto are confidential and shall not be dis-  
15 closed except under the following conditions:

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

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

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

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

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

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

the child or

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

39 (F) an agency charged with the responsibility of preventing or  
40 treating physical, mental or emotional abuse or neglect or sexual  
41 abuse of children, if the agency requesting the information has stan-  
42 dards of confidentiality as strict or stricter than the requirements of  
43 this code;

1 (G) a person who is a member of a multidisciplinary team; or  
2 (H) an agency authorized by a properly constituted authority to  
3 diagnose, care for, treat or supervise a child who is the subject of  
4 a report or record of child abuse or neglect; or

5 ~~(I) any individual, or any public or private agency or institution~~  
6 ~~having custody of the child under court order or providing social,~~  
7 ~~educational, medical, or mental health, advocacy or other profes-~~  
8 ~~sional services to the child or a court-approved advocate for the~~  
9 ~~child, with protection for the identity of reporters and other ap-~~  
10 ~~propriate persons.~~

11 (b) No individual, association, partnership, corporation or other  
12 entity shall willfully or knowingly permit or encourage the unau-  
13 thorized dissemination of the contents of records or reports con-  
14 cerning child abuse or neglect received by the department of social  
15 and rehabilitation services or a law enforcement agency in accordance  
16 with K.S.A. 38-1522 and amendments thereto except as provided  
17 by this code. Violation of this subsection is a class B misdemeanor.

18 (c) Records or reports given to persons described in paragraph  
19 ~~(a)(2)(A)~~ subsection (a)(2)(G) shall not be further disclosed to persons  
20 who are not members of the multidisciplinary team without prior  
21 approval of the court.

22 Sec. 3. K.S.A. 38-1508 is hereby amended to read as follows:  
23 38-1508. All records and reports concerning child abuse or neglect  
24 received by law enforcement agencies shall be kept separate from  
25 all other records and shall not be disclosed to anyone except:

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

28 (b) the guardian *ad litem* and the parties to the proceedings and  
29 their attorneys, subject to the restrictions imposed by subsection  
30 (a)(2)(C) of K.S.A. 38-1507 and amendments thereto;

31 ~~(c) the department of social and rehabilitation services;~~

32 ~~(d) the officers of public institutions or agencies to whom~~  
33 ~~custody of the child has been granted any individual, or any~~  
34 ~~officer of a public or private agency or institution, having custody~~  
35 ~~of the child under court order or providing social, educational,~~  
36 ~~medical, or mental health, advocacy or other professional services~~  
37 ~~to the child or a court-approved advocate for the child, with pro-~~  
38 ~~tection for the identity of reporters and other appropriate persons;~~  
39 and

40 (e) law enforcement officers or county or district attorneys or  
41 their staff when necessary for the discharge of their official duties  
42 in investigating or prosecuting a report of known or suspected child  
43 abuse or neglect.

Any individual, or public or private 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 and specifically includes the following: physicians; psychiatrists; nurse; nurse practitioners; psychologists; licensed social workers; child development specialists; physician assistants; community mental health workers; alcohol and drug abuse counselors; and licensed or registered child care providers. Teachers, administrators, and school paraprofessionals may have access but may not copy materials in the file.

New Section 4 --  
Social workers sharing information under this act will not be subject to review under any regulations adopted by the Behavioral Sciences Regulatory Board.

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1 records in the custody of the Kansas state historical society related  
2 to proceedings under the Kansas juvenile offenders code.

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

7 Sec. 5. K.S.A. 1991 Supp. 38-1608 is hereby amended to read  
8 as follows: 38-1608. (a) All records of law enforcement officers and  
9 agencies and municipal courts concerning a public offense committed  
10 or alleged to have been committed by a juvenile under 16 years of  
11 age shall be kept readily distinguishable from criminal and other  
12 records and shall not be disclosed to anyone except:

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

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

16 (3) the department of social and rehabilitation services ~~or the~~  
17 ~~officers of public institutions or agencies to whom the juvenile~~  
18 ~~is committed;~~

19 (4) *any individual, or any officer of a public or private agency*  
20 *or institution, having custody of the juvenile under court order or*  
21 *providing ~~social,~~ educational, medical, or mental health, ~~advocacy~~*  
22 *or other professional services to the juvenile or a court-approved*  
23 *advocate for the juvenile;*

24 ~~(4)~~ (5) law enforcement officers or county or district attorneys  
25 or their staff when necessary for the discharge of their official duties;

26 ~~(5)~~ (6) the central repository, as defined by K.S.A. 22-4701 and  
27 amendments thereto, for use only as a part of the juvenile offender  
28 information system established under K.S.A. 38-1618 and amend-  
29 ments thereto; and

30 ~~(6)~~ (7) any other person when authorized by a court order, sub-  
31 ject to any conditions imposed by the order.

32 (b) The provisions of this section shall not apply to records  
33 concerning:

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

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

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

42 (c) All records of law enforcement officers and agencies and mu-  
43 nicipal courts concerning a public offense committed or alleged to

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1 have been committed by a juvenile 16 or 17 years of age shall be  
2 subject to the same disclosure restrictions as the records of adults.

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

7 Sec. 6. K.S.A. 38-1508 and K.S.A. 1991 Supp. 38-1506, 38-1507,  
8 38-1607 and 38-1608 are hereby repealed.

9 Sec. 7. ~~This act shall take effect and be in force from and after~~  
10 its publication in the ~~statute book.~~

Effective January 1, 1993.

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