

Approved: 3-14-95
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Tim Emert at 10:00 a.m. on February 13, 1995 in Room 514-S of the Capitol.

All members were present except:

Committee staff present: Michael Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Janice Brasher, Committee Secretary

Conferees appearing before the committee:

Senator Bogina
Rod Bieker, General Counsel, State Department of Education
Steve McClure, Superintendent, Shawnee Heights School District
Don Conwell, Superintendent, USD 380
Sue Chase, Kansas NEA
Norm Wilks, Kansas Association of School Boards
Kyle Smith, Kansas Bureau of Investigation
Jo Bryant, Kansas Action for Children

Others attending: See attached list

SB 160--Concerning the state board of education, relating to authorizing the state board to receive certain information.

SB 161--Concerning school districts, relating to employees and prospective employees thereof, authorizing boards of education to receive certain information.

SB 185--Concerning the state department of education, relating to information concerning teachers' certificates.

Senator Bogina testified in support of **SB 160** and **SB 161** stating that it is important that our boards of education be aware of the background of the individuals that lead our children. Senator Bogina cited a case in this state where an individual convicted of child abuse was granted a certificate to teach in Kansas schools. Senator Bogina acknowledged that doing background checks of applicants for teaching could be cumbersome, and expensive, however, those considerations need to be weighed against the future well being of the children in this state. Senator Bogina stated that the enactment of these two bills would provide safeguards and an attempt to limit the exposure of students to those who commit certain crimes. Senator Bogina concluded by requesting favorable consideration and friendly amendments. (Attachment 1)

Rod Bieker, General Counsel, State Department of Education appeared generally in support of **SB 185**, **SB 160** and **SB 161** with a few exceptions. Mr. Bieker explained that he was not appearing on behalf of the State Board of Education, but as a member of a statutory group to which the State Board of Education refers any matter concerning issuance or ratification of/or suspension of a teaching certificate.

With reference to **SB 185**, Mr. Bieker stated that the State Department of Education strongly support the concept presented in New Section 1 of the bill, however, those in the Department do not see the need for the provisions contained in subsection (b) of New Section 2 nor those in Section 3. Mr. Bieker suggested expanding the list of crimes as done in Section 1 of **SB 160**. Mr. Bieker stated there was strong support of Section 1, of **SB 185**, and recommends incorporating that section into **SB 160**. Drawing attention to the handout, Mr. Bieker stated that the balloon combines **SB 185** and **SB 160** into the balloon of **SB 160**. (Attachment 2)

Questions and discussion followed, regarding the need of monthly reporting from the District Attorneys' Offices. It was recommended that the term "monthly" be removed and replaced with "report all convictions or occurrence of all people committing those crimes."

Don Conwell, Superintendent of USD 380 testified as a proponent of **SB 185**, stating that because of his research of child molestation cases, he strongly supports an intrastate network identifying persons who commit sexual abuse crimes. Creating an intrastate network will help protect students and decrease liability exposure for the school districts. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:00 a.m. on February 13, 1995.

Sue Chase, KNEA testified as a proponent for SB 185, SB 160 and with reservation SB 161. Ms. Chase stated that she agreed with Mr. Bieker that the probability of cases coming before the Professional Practices Committee depends on chance. The reporting system for each individual found in SB 185 would be a benefit. Ms Chase expressed concerns with SB 160 and SB 161 requiring fingerprinting for those applying. In the case of teachers, Ms Chase cited delays and expense in this requirement. Ms Chase concluded by stating that there is a need to be concerned that people in that profession are the appropriate people, but we do have concerns about the costs. (Attachment 4)

Norm Wilks, Kansas Association of School Boards, testified in support of SB 160 and SB 185. Mr. Wilks agreed with the need for reporting and supplying information to the employment agency, and certification agency where certain crimes are set forth in SB 185. SB 185 and SB 160 deals only with the certification of teachers, while SB 161 deals at the local level with all employees. Mr. Wilks expressed concerns with the scope of reporting required by SB 161. The language talks about providing information or making that information available to the local school district regarding criminal history, intelligence information, information relating to criminals and background information. Mr. Wilks contended that the scope may be too broad in terms of the local decision making process that goes into hiring, citing that just because there is a criminal investigation and someone makes a decision based on that information that may put the school board in real jeopardy in terms of their hiring process. Mr. Wilks then referred to the information (balloon) Mr. Bieker prepared, stating that pulling SB 185 into SB 160 would be dealing with certificate being issued or being revoked because of criminal activity that would catch the local school district, because if the certificate is not there they are not going to be provided the opportunity to teach in the local school district. Mr. Wilks suggested that SB 185 be put into SB 160 as suggested by Mr. Bieker to deal with certification issues. (Attachment 5) Mr. Wilks recommended that since SB 161 is more expansive, in terms of volume of information, it may be advisable to deal with the certificated employees first. (Attachment 6)

Mr. Wilks expressed concerns with the volume of information, and the appropriateness of that information.

Kyle Smith, Kansas Bureau of Investigation, stated that the KBI is in support of SB 160 and SB 161. Mr. Smith stated that if dealing with pedophile and those types of crimes, a five year statute of limitation would not be sufficient. People convicted of those crimes should never be allowed to obtain certification or seek employment within the schools. They will seek out those kinds of position. The KBI currently provides conviction data to school districts on any type of employee if they want to make a nondisclosure agreement and pay \$11.00. Problems with the language in SB 160 and SB 161 would be referring to data, that could be unsubstantiated, citing Title VII, the Civil Rights Act of 1968, "because minorities have a higher percentage of arrest and convictions, than average population, the federal court under the Civil Rights Act have ruled that you cannot use arrests or even conviction data to exclude somebody from employment, unless you can make a distinct showing that it has sufficient relevance to that job." Second problem with the information required by these bills, would be the substantial impact on KBI in processing additional information requests under current conditions. There would be additional lag time in granting certificates. Mr. Smith concluded by stating that in three years a system will be in place to handle a larger volume of information requests.

Steve McClure offered comments in support of SB 185, and written testimony. (Attachment 7)

Johannah Bryant deferred to her written testimony in support of SB 185. (Attachment 8)

Bill Introduction:

Lisa Moots, Kansas Sentencing Commission requested the introduction of two bills.

The first bill proposal was to amend K.S.A. 21-4721(e)(1) to:

The A sentence that departs from the presumptive sentence resulted from partiality, prejudice, oppression or corrupt motive;

The second proposal expanded, K.S.A. 21-4603d, to include juveniles who commit a new felony while the offender is serving a term of commitment to a youth center, probation, assignment to a community correctional services program, or conditional release imposed as a result of a felony adjudication pursuant to the juvenile offenders code. (Attachment 9)

Senator Parkinson moved to introduce, second by Senator Bond. Motion carried.

Senator Vancrum requested the introduction of two bills. One is a major rewrite of limited liability company. Motion made by Senator Vancrum to introduce, second by Senator Bond. Motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:00 a.m. on February 13, 1995.

The second bill concerns establishing a revolving fund addressing deficiency in construction. Motion to introduce made by Senator Vancrum. Second by Senator Reynolds. Motion carried.

Stu Enetz requested a bill pertaining to licensing of security guards which he has discussed with the Attorney General's Office.

Motion made by Senator Parkinson to introduce, second by Senator Bond. Motion carried.

Senator Tillitson requested a bill to be introduced that reorganizes the Kansas Parole Board. This was a recommendation of the post audit committee. (Attachment 10)

Motion made by Senator Parkinson, second by Senator Reynolds to introduce a bill that would implement recommendations of the post audit committee to reorganize the Kansas Parole Board. Motion carried.

Senator Moran presented a request for a bill introduction that had previously presented in **SB 258** from 1991 session by Senator Hardenberger. This bill would exempt the Historical Society from having to comply with the sprinkler regulations. Motion made by Senator Moran to introduce, second by Senator Parkinson. Motion carried.

Senator Moran requested a bill allowing victims of sexual crimes to have the perpetrators tested for AIDS and other sexually transmitted diseases. Motion made to introduce made by Senator Moran, second by Senator Feleciano. Motion carried.

Senator Parkinson requested a bill that would allow health insurance companies to subrogate health insurance payments and personal injury claims, this would eliminate double recoveries. Motion made to introduce, second by Senator Vancrum. Motion carried.

Senator Bond requested a bill that would use municipal court convictions for drug possession, basically marijuana, as a prior conviction. Motion made by Senator Bond to introduce, second by Senator Vancrum. Motion carried.

Meeting adjourned 11:00 a.m.

The next meeting is scheduled for February 15, 1995.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-13-95

NAME	REPRESENTING
Senator Dan Bogren	
Lisa Moots	FSC
M. Kuni Stutzel	KSBE
Rod Becker	KSDE
NORM WILKS	KASB
Diane Gjerstad	USD 259
BILL Musick	St Bd of Ed.
HAROLD Pittis	CITIZEN
Seward Chase	KNEA
Jacquie Oake	SQE
Denise Apt	USA
Brilla Scott	USA
Steve McClure	USA / USD 450
MARK Ran	Professional Security, Inc.
Johannah Bryant	Ks. Action for Children
Doug Connell	USD #380
Paul Shelley	OIA
Kyle Smith	KBI



TOPEKA

SENATE CHAMBER

STATE CAPITOL
TOPEKA, KANSAS 66612-1504

(913) 296-7362

COMMITTEE ASSIGNMENTS

CHAIRMAN: WAYS AND MEANS
VICE CHAIR: GOVERNMENTAL ORGANIZATION
MEMBER: FINANCE COUNCIL
LEGISLATIVE BUDGET COMM.
STATE COMMITTEE OF BLDG.
CONSTRUCTION
KPERS STUDY COMMISSION

AUGUST BOGINA, JR. P.E.

SENATOR, TENTH DISTRICT
JOHNSON COUNTY
5747 RICHARDS CIRCLE
SHAWNEE, KS 66216

February 13, 1995

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I appreciate the opportunity of appearing before you to ask your support for SB 160 and SB 161. These bills would attempt to address what I believe could be a very serious problem.

It has come to my attention that an individual was charged and convicted in another state of the crime of child abuse. Subsequent to that activity, the individual relocated to our state, applied for and was granted a certificate to teach in our school systems.

I believe it is important that our boards of education be aware of the background of the individuals that lead our children through their learning experiences. I believe the enactment of these two bills would provide those safeguards and an attempt to limit the exposure of our students to these individuals.

I recognize that this activity and background check of applicants for these teaching certificates could be cumbersome and somewhat expensive, but I believe the price would be "cheaper" compared to the damage that could be caused to the future well being of even one child.

I welcome friendly amendments and your favorable consideration.

Senator August Bogina, Jr.

*Senate Judiciary Comm.
2-13-95
Attachment 1*

Kansas State Board of Education

120 S.E. 10th Avenue, Topeka, Kansas 66612-1182

February 13, 1995

TO: Senate Judiciary Committee

FROM: Rodney J. Bieker, General Counsel
State Department of Education

SUBJECT: 1995 Senate Bill No. 160 and No. 185

My name is Rodney J. Bieker, and I am General Counsel for the State Department of Education. It is a pleasure for me to appear before this Committee.

My comments this morning address the provisions in both Senate Bill No. 160 and 185. Of course, these two bills concern the issuance of teaching or administrative certificates to persons convicted of, or placed on diversion for, engaging in serious criminal conduct.

At the outset, I need to inform the Committee that the State Board of Education last considered the matter of criminal background checks of certificate applicants in the Fall of 1986 and Spring of 1987. Its review at that time revealed a substantial fiscal note and time delay in the issuance of certificates. Therefore, the proposal to conduct criminal background checks was abandoned.

In addition, you should be advised that the State Board has taken an aggressive position in denying a certificate to, or suspending or revoking a certificate of, a person who has engaged in felonious conduct. This is demonstrated in the Supreme Court case of Hainline v. Bond, 250 Kan. 217 (1992) which involved the State Board's suspension of the teaching certificate of an individual who had engaged in felonious conduct but had been allowed to enter into a diversion agreement. There, the State Board, notwithstanding the lack of a criminal conviction of a certificate holder, nonetheless suspended the teaching certificate of the certificate holder due to serious criminal conduct. As evidenced by the Hainline case, the State Board currently has sufficient statutory and regulatory authority and procedures in place to deny or revoke the certificate of persons who engage in felonious criminal activity.

Office of General Counsel
(913) 296-3204

Senate Judiciary Com.
2-13-95
Attachment 2

With reference to Senate Bill No. 185, we, in the State Department of Education, see no need for the provisions contained in subsection (b) of New Section 2, nor those in Section 3. We, however, strongly support the concept presented in New Section 1 of the bill. These provisions would require county and district attorneys to file a report with the State Department of Education identifying the name, address and social security number of any person convicted of, or placed on diversion for, violating certain state criminal statutes, where the victim of the crime was a person under 18 years of age at the time of the criminal act. Our only suggestion for improvement in regard to these provisions is to expand the list of crimes as is done in Section 1 of Senate Bill No. 160. With this change, we in the Department of Education would support Senate Bill No. 185.

Turning then to the provisions of Senate Bill No. 160, we also support the concept provided therein. However, as I have previously indicated, the requirement for fingerprinting and criminal background checks of all persons applying for an initial teaching certificate or a renewal thereof presents serious fiscal and time constraints. These difficulties are indicated in a letter under date of February 3, 1995 to Dale Dennis of KSDE, from Charles Sexson of the KBI, which is attached to my testimony. As indicated there, the fees for FBI and KBI fingerprint checks are substantial, and the response time is relatively lengthy.

If, however, these constraints would not be a practical bar to the enactment to the provisions of Senate Bill No. 160, we at the State Department of Education would offer amendments to refine the provisions of the bill and merge its provisions with those of Senate Bill No. 185. These proposed amendments are indicated in the balloon to Senate Bill No. 160 which is attached to my testimony.

We believe these amendments would provide some limitation on the denial of teaching certificates, while at the same time restricting the issuance or renewal of certificates to persons who have engaged in serious criminal conduct. I will briefly review these amendments with you at this time.

In closing, I would reiterate that we in the State Department of Education would endorse the concept provided in section 1 of Senate Bill No. 185 and all of the provisions contained in Senate Bill No. 160, with the modification we have suggested.



LARRY WELCH
DIRECTOR

KANSAS BUREAU OF INVESTIGATION
DIVISION OF THE OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS

February 3, 1995

CARLA
ATTORNEY
RECEIVED
FEB 08 1995

Dale Dennis, Deputy Commissioner
State Board of Education
120 SE 10th Avenue
Topeka, Kansas 66612-1182

RE: Senate Bill 160

Dear Mr. Dennis:

In response to my telephone conversation with Phil Bennet yesterday, the following information is being provided for your use insofar as current criminal history record check fees and estimated turnaround time for inquiries.

\$10.00 for record check through name index only (two names checked).
Additional names for same person is \$5.00 per name.

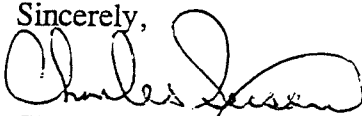
\$17.00 for submission of ten-print fingerprint card, KBI check only.

\$41.00 for submission of two ten-print fingerprint cards, KBI and FBI checks.

It appears that Senate Bill 160 would require an FBI fingerprint check in addition to a check of the State Central Record Repository (KBI). The fee for this service is \$41.00 (KBI \$17.00 and FBI \$24.00). Minimum response time for this type of record check is six to eight weeks.

The bill also provides for access to "criminal intelligence information and information relating to criminal and background investigations". While these provisions will be reviewed by our legal staff, it is reasonable to assume that the cost of conducting record checks through multiple databases will increase commensurate with the demand placed on this agency. The dissemination of information from investigation and intelligence files is a separate issue and not to be confused with a criminal history record check.

Please call me at 291-3029 if you need additional information.

Sincerely,

Charles Sexson, SAC
Criminal Justice Information Services Division
Kansas Bureau of Investigation

1620 TYLER TOPEKA, KANSAS 66612
(913) 296-8200 FAX: 296-6781

SENATE BILL No. 160

By Senator Bogina

1-31

9 AN ACT concerning the state board of education; relating to persons
10 applying for issuance or renewal of certificates; authorizing the state
11 board to receive certain information.

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

14 Section 1. (a) ~~The~~ state board of education shall not knowingly issue
15 a certificate to or renew the certificate of any person who:

16 (1) (A) Has been convicted of an inherently dangerous felony as de-
17 fined in K.S.A. 1994 Supp. 21-3436, and amendments thereto, (B) has
18 been convicted of a felony under the uniform controlled substances act,
19 (C) has been convicted of any act which is described in articles 34, 35 or
20 36 of chapter 21 of Kansas Statutes Annotated or has been convicted of
21 an attempt under K.S.A. 21-3301, and amendments thereto, to commit
22 any such act, ~~or~~ (D) has been convicted of any act which is described in
23 K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments thereto, or sim-
24 ilar statutes of other states or the federal government;

25 (2) has committed an act of physical, mental or emotional abuse or
26 neglect or sexual abuse of a child as validated by the department of social
27 and rehabilitation services pursuant to K.S.A. 38-1523, and amendments
28 thereto, and (A) the person has failed to successfully complete a corrective
29 action plan which had been deemed appropriate and approved by the
30 department of social and rehabilitation services, or (B) the record has not
31 been expunged pursuant to rules and regulations adopted by the secretary
32 of social and rehabilitation services; or

33 (3) has had parental rights terminated pursuant to the Kansas code
34 for care of children or a similar code of any other state.

35 (b) For the purpose of complying with the provisions of subsection
36 (a), the state board of education may:

37 (1) Require fingerprinting of all persons applying for issuance or re-
38 newal of a certificate and submit such fingerprints to the Kansas bureau
39 of investigation and to the federal bureau of investigation for the purposes
40 of verifying the identity of such persons and obtaining records of criminal
41 convictions of such persons;

42 (2) receive from the Kansas bureau of investigation or the state de-
43 partment of corrections or other criminal justice agencies criminal history

Except as provided in subsection (d), the

within the 5-year period preceding the date of filing an application

, or (E) has entered into a criminal diversion agreement after having been charged with any offense described herein

4-2

2-5

1 record information, criminal intelligence information and information re-
 2 lating to criminal and background investigations insofar as such infor-
 3 mation pertains to persons applying for issuance or renewal of a certifi-
 4 cate; and
 5 (3) make written request of and receive from the district courts and
 6 the department of social and rehabilitation services information relating
 7 to proceedings against persons applying for issuance or renewal of a cer-
 8 tificate insofar as such proceedings pertain to any of the offenses specified
 9 in subsection (a).
 10 (c) Information, other than conviction data, received by the state
 11 board of education pursuant to the provisions of subsection (b) shall be
 12 confidential. Any disclosure of such confidential information by a member
 13 of the state board shall be subject to any civil or criminal penalties im-
 14 posed by law for violations of the duty of confidentiality imposed upon
 15 the agencies from which the information was received and shall constitute
 16 grounds for removal from office.

, at no cost,
 who currently hold a certificate or who are
 or acts
 records of criminal convictions and adjudications of abuse
 or neglect and termination of parental rights

17 (d) ~~The state board of education, in accordance with K.S.A. 75-4319,~~
18 ~~and amendments thereto, may recess for a closed or executive meeting~~
19 ~~to receive and discuss information specified in subsection (b) and to ne-~~
20 ~~gotiate with persons applying for issuance or renewal of a certificate re-~~
21 ~~garding any such information.~~

(1) No person who has been denied a certificate by the state board of education for any of the offenses or acts specified in subsection (a) shall be eligible to apply for a certificate until at least five years have elapsed from the date of denial of the certificate.

(2) If a person who has been denied a certificate under the provisions of subsection (d)(1), subsequently applies for a certificate, the state board of education may consider factors including, but not limited to the following, in determining whether to grant a certificate:

- (A) The nature and seriousness of the original conduct resulting in denial of a certificate;
- (B) the conduct of the person subsequent to the denial;
- (C) the time elapsed since the denial;
- (D) the age of the person at time of the conduct resulting in the denial;
- (E) whether the conduct was an isolated or reoccurring incident; and
- (F) discharge from probation, pardon or expungement.

(e) Before any certificate issued by the state board of education is denied for any of the offenses or acts specified in subsection (a), the person shall be given notice and an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(f) On and after July 1, 1995, the county or district attorney or the department of social and rehabilitation services shall file a monthly written report with the state board of education listing the name, address and social security number of any person who currently holds a certificate issued by the state board of education who has committed any offense or act specified in subsection (a).

22 (e) The state board of education shall not be liable for civil damages
23 to any person refused issuance or renewal of a certificate by reason of the
24 state board's compliance, in good faith, with the provisions of this section.
25 Sec. 2. This act shall take effect and be in force from and after its
26 publication in the statute book.

(g)

2-13-95
Mary
Conwell

Summary of Testimony

In 1993-94 I began a doctoral dissertation that focused on a female school dropout. This purpose of this case study was to look at the literature of the familial reasons that students dropout of school and to compare it to this girl's life experiences. Of importance to this testimony is that portion of the study that focuses on this girls experience of being sexually molested by two different adults. In this case neither molester was a teacher or a person who held a teaching certificate but the devastation of this crime does not know or care about the perpetrators occupation. The devastation in this and so many other instances of sexual molestation can have lasting a impact upon a child well into their adult life.

I wanted to share some statistics concerning sexually abused children. The following is an excerpt from the research paper that I wrote with respect to the literature on sexual molestation and teen pregnancy.

"A 1985 Los Angeles Times survey showed that twenty-seven percent of all women and sixteen percent of men they surveyed were sexually abused as children. Nearly all of these claim that an adult was the person who abused them and half of them were abused by an adult in authority over them. In a 1992 study of five hundred adolescent mothers conducted by Debra Boyer and David Fine, they found that two-thirds of these mothers had been sexually victimized in the past by men whose age averaged twenty seven years old.

Whether willingly or not, the large majority of teenage pregnancies are caused by adults. Nationally, seventy-one percent of teenage births involve a teen and an adult over the age of twenty. Men over the age of twenty father five times more children among junior high age girls then do junior high age boys.. Moreover, men over the age of twenty five father two times as many teenage births then do boys under the age of eighteen. For some of our children, the lessons taught in school concerning birth control are meaningless because of the adults in their lives." *

Senate Judiciary Com
2-13-95
Attachment 3

In the 1994 Kansas "Kids Count Data Book" figures for the emotional well being of Kansas children are listed. Included in this category are those of reported child abuse/neglect rate, 34.3 cases per 1,000 children under age 18, and confirmed child abuse/neglect rate, 4.4 cases per 1,000 children under the age of 18. Meanwhile the percentage of all births that are to single teens stands at 8.6 percent of all births in the state.

You may ask how this information pertains to the legislation that you are considering. Current educational literature calls for schools to create safe and nurturing environments. In order to accomplish this, one of the ways that school administrators can control this is the hiring of people who do not have a proven record of abusing children. We should, as much as possible, eliminate all predators, pediophiles, abusers, or whatever else we might call people like this from our schools. Whatever environment our children come to us from, our children deserve to come to school and know that it is truly a safe place to be.

* Males, M. (1994, January). Poverty, Rape, Adult/Teen Sex: Why "Pregnancy Prevention" Programs Don't Work. Phi Delta Kappan, p. 407-410.

Caldas, S. J. (1994, January). Teen Pregnancy: Why It Remains a Serious Social, Economic, and Educational Problem in the U.S. Phi Delta Kappan, p. 402-406.

Reed, S. & Sautter, R. Craig (1990, June). Children of Poverty: The Status of 12 Million Young Americans. Phi Delta Kappan, p. K1-K11.



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 W. 10TH STREET / TOPEKA, KANSAS 66612-1686

Susan Chase Testimony Before
Senate Judiciary Committee
Monday, February 13, 1995

Thank you Mr. Chairman. My name is Susan Chase and I represent the Kansas National Education Association. I am here in support of SB 185 regarding information concerning teachers' certificates.

KNEA supports this bill because it provides the solution to the one problem that has plagued the Professional Practices Commission. The Professional Practices Commission was created by State Board regulation with appointees being recommended by the Teaching and School Administration Professional Standards Advisory Board. This is the advisory committee to the State Board of Education on professional standards and certification. The duty of the Practices Commission, which is made up of a majority of teachers, is to make recommendations regarding the revocation of certification or the initial certification of professionals who have been reported for reasons cited in K.S.A. 72-1383.

The Practices Commission takes its responsibility very seriously and has been continually frustrated by the way cases are referred to the Commission. Currently, cases come before them only if someone has called to report the problem, or if they happen to read about a case in the paper. They have no way of collecting the information through regular channels. Therefore, it becomes a game of chance. Some cases go unnoticed while others get referred.

KNEA believes this change in statute will go a long way in providing a more reliable source of information for cases, and we urge the committee to vote favorably for this bill. Thank you for listening to our concerns.

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 S.W. Arrowhead Rd. Topeka, Kansas 66604
913-273-3600

**Testimony on S.B. 185
before the
Senate Judiciary Committee**

by

**Norm Wilks, Director of Labor Relations
Kansas Association of School Boards**

February 13, 1995

Mister Chairman and members of the Committee, on behalf of the unified school boards of education that are members of the Kansas Association of School Boards, thank you for the opportunity to express our support for S.B. 185.

The information regarding certain crimes is provided to the state department. The information is available to determine the granting, renewal or termination of a teaching certificate. Individuals found guilty or admitting to the criminal acts by way of a diversion agreement can be removed from the teaching profession by revocation of their certificates.

The method proposed in S.B. 185 is best because the distribution of information is kept to a minimum. Without a certificate, the local school board cannot employ the individual as a teacher. The individual is protected by procedural safeguards established by the state department.

The scope of information is reasonable and distribution of the information is restricted. However, the desired result of removing certain risks from Kansas classrooms is possible.

*Senate Judiciary Com.
2-13-95
Attachment 5*



**Testimony on S.B. 161
before the
Senate Committee on Judiciary**

by

**Norm Wilks, Director of Labor Relations
Kansas Association of School Boards**

February 13, 1995

Mister Chairman and members of the Committee, on behalf of the unified school boards of education that are members of the Kansas Association of School Boards, thank you for the opportunity to express our concerns regarding S.B. 161. Boards are always concerned about current and accurate information about employees and potential employees. They are particularly concerned about information that may create a risk to students. However, S.B. 161 may provide more information than appropriate and create serious disclosure problems.

The potential of civil and criminal penalties for any disclosure lessens the possible use of any information. The bill provides for criminal history, criminal intelligence and information relating to criminal investigations and background investigations. The potential is that employers may make employment decisions on inappropriate information and greater risk to the potential employee.

The approach of S.B. 185 provides necessary information but with less exposure and liability to the board.

*Senate Judiciary
2-13-95
Attachment 6*

**SHAWNEE HEIGHTS
UNIFIED SCHOOL DISTRICT NO. 450**

Central Services Facility
4401 S.E. Shawnee Heights Road
Tecumseh, Kansas 66542-9799 (913) 379-0584

Dr. Stephen G. McClure, Superintendent of Schools
Rebecca L. Lisher, Assistant Superintendent - Instruction
Shirley J. Martin, Assistant to the Superintendent for Business
Kyle Goodwin, Director of Special Education

**Dr. Steve McClure, Supt.
Shawnee Heights U.S.D. 450
Representing
United School Administrators of Kansas**

Briefing In Support of Senate Bill #185

Purpose: The purpose of my briefing is to provide you (committee members) critical information about the Senate Bill #185 from a practicing school administrator's point of view.

This bill sets up an intrastate network for county attorneys, or their designee, to report crimes against children to the Kansas State Department of Education.

The abuse of children is a constant, prevalent, and ongoing problem in our society.

Child abuse does not exist, **IF**, we mean by using the term, "child abuse," that after an individual grows up, there are no longer scars from that abuse. Growing up, physically, sometimes makes you big enough in stature to resist such abuse. But, the scars from abuse at age 8, 13, 16, are still there when you are 35 and 40 years old. We all know individuals, many individuals, who carry those scars around with them for a lifetime.

As a Gideon, I was in charge of the prison ministry in Lansing for six years. During that time, I saw many things I found scary. Incident #1, enclosed, provides one of those incidences. Let me go over that with you briefly. What happened in that situation is that I worked with an individual in the medium security prison at Lansing. The individual had abused a number of young girls. The individual held Kansas and Missouri teaching certificates. The individual lived in Johnson County, abused children in Johnson County, and taught school in Missouri. There was no way the superintendent of Shawnee Mission was aware that this individual even lived in Overland Park, much less their conviction on child abuse, or the fact they held a Kansas teaching certificate.

*Senate Judiciary Com.
2-13-95
Attachment 7*

Page two

As I worked with this individual, I became concerned, (1) about the amount of time it took to get this individual to Larned into a counseling program; (2) also the fact that there was some doubt as to whether the counseling would be provided prior to the three year prison term being completed. However, another concern of mine was that this individual was going back into society with a valid teaching certificate. So, I called Judy Hamilton, who was then the director of certification at the Kansas State Department of Education. She, then, checked out my story with Johnson County District Court, found it to be a true story, and the person's teaching certificate was revoked. There is a good interstate network, whereby if a teaching certificate is revoked in Kansas, all of the states in the United States receive that information. So, that person's Missouri teaching certificate was also revoked.

In the future, there may be other ways of fulfilling this need that Senate Bill #185 addresses. For example, in four years, K.B.I. will have a good information system up and going. There is the Violent Crime in Law Enforcement Act of 1993, which provides a national crime background check system. Title VIII, Sub-Title C, The Jacob Wetterling Crimes Against Children Registration Act, will help in this regard. Title VII, The Violence Against Women's Act, will help in this regard. But, currently, there is no system in place that meets the need that Senate Bill #185 addresses.

As a school administrator, I know I am liable in numerous situations. In these situations, when something like this happens, I am liable for failure to supervise; failure to investigate; failure to train; failure to hire carefully; failure to warn others; failure to report abuse. However, this, as a school administrator, is not my primary concern. My primary concern is the hurt that affects children for their entire lives. This law protects children against repeated offenders offenses. No superintendent wants an educator in their school district that has committed any of these offenses. No principal wants a teacher in their building that has committed any of these offenses. No teacher wants the teacher next door teaching as a colleague who has committed any of these offenses.

There is a good interstate network currently in place. However, there needs to be an intrastate network. What we are asking you to support is Senate Bill #185, which will create an intrastate network, whereby county attorneys will communicate such offenses to the Kansas State Department of Education.

Thank you.

INCIDENT #1

In the 1980's, I was heavily involved in a prison ministry at Lansing State Prison. One of the inmates I was involved with was an individual who was in prison for crimes against children and had previously, upon the time that this surfaced, was a teacher in the Kansas City, Mo. school district that lived in Johnson County, Ks. and held both a Missouri and Kansas teaching certificate.

In a case such as this, my recommendation of a Kansas State Department of Education policy/regulation might not work totally because there was no way that the superintendent of the Shawnee Mission School District was aware of this individual, much less aware of the conviction.

With my long-term relationship with this inmate, it became evident to me that sometimes these individuals work their way up on the list to receive treatment and sometimes they do not. He finally did receive some treatment at Larned State Hospital. He was returned to Lansing and released shortly, thereafter. In this particular incident, I did report this to the Kansas State Department of Education, Director of Certification, and she started the process which eventually resulted in the revocation of this individual's certificate.

February 13, 1995

SENATE BILL # 185

This act is designed to protect children from repeated acts of:

- 21-3410 Aggravated Assault
- 21-3414 Aggravated Battery
- 21-3502 Rape
- 21-3503 Indecent Liberties with a Child (Ages 14-16) (Touch, Soliciting)
- 21-3504 Aggravated Liberties with a Child (Ages 14-16) (Intercourse)
- 21-3505 Criminal Sodomy (Ages 14-16)
- 21-3506 Aggravated Criminal Sodomy (Under Age 14)
- 21-3510 Indecent Solicitation of a Child (Ages 14-16)
- 21-3511 Aggravated Indecent Solicitation of a Child (Under Age 14)
- 21-3516 Sexual Exploitation of a Child
- 21-3518 Aggravated Sexual Battery (Force or Fear)
- 21-3603 Aggravated Incest
- 21-3609 Abuse of a Child



**Kansas Action
for Children, Inc.**
Where Kansas Kids Count!

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TESTIMONY TO: SENATE JUDICIARY

RE: SB 185

BY: JOHANNAH BRYANT

FEBRUARY 13, 1995

I am here to speak in favor of SB 185. Our organization supports this bill because we feel it can be effective in protecting our children from abuse.

Abusive behavior harms children both physically and emotionally. The impact of abuse frequently last throughout a child's life. It is far, far better to prevent such abuse than it is to try to repair the damage to a child's life after the abuse has occurred. Thus, we welcome efforts such as this that have a preventive focus.

Unfortunately, child abuse is not a rare occurrence in our state. The *Kids Count Data Book* indicates that during the years 1987-91 an average of 23,005 reports of child abuse per year were made. The U.S. Advisory Board on Child Abuse and Neglect in their 1993 report says "the best evidence is that at least 2.5% of American children are abused or neglected each year."

We encourage you to support SB 185.

*Senate Judiciary Com.
2-13-95
Attachment 8*



State of Kansas
KANSAS SENTENCING COMMISSION

The Kansas Sentencing Commission respectfully requests introduction of a bill with the following statutory amendments:

K.S.A. 21-4721(e)(1) is hereby amended to read:

~~The~~ *A* sentence *that departs from the presumptive sentence* resulted from partiality, prejudice, oppression or corrupt motive;

21-4603d. Authorized dispositions;

crimes committed on or after July 1, 1993.
(a) Whenever any person has been found guilty of _____, the court may adjudge any of the fol-

ENCING

21-4603d

9-2

Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense;

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567 and amendments thereto, the court may include confinement in a county jail not to exceed 30 days, which need not be served consecutively, as a condition of probation or community corrections placement;

(4) assign the defendant to a community correctional services program in presumptive nonprison cases or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed 180 days as a condition of probation followed by a 180-day period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program. If the defendant was classified in grid blocks 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the court may impose a nonprison sanction on the condition that the offender complete the program at the Labette correctional conservation camp. Such a placement decision shall not be considered a departure and shall not be subject to appeal;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502 and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction

of the defendant; or repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction. Such repayment of the amount of any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the law enforcement agency;

(9) order the defendant to pay full or partial restitution;

(10) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8) and (9); or

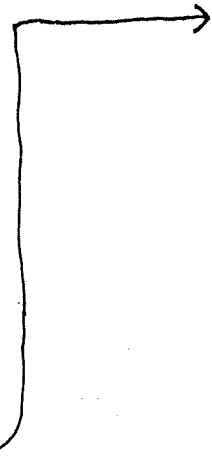
(11) suspend imposition of sentence in misdemeanor cases.

In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502 and amendments thereto.

In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole or conditional release.

When a new felony is committed while the offender is incarcerated and serving a sentence for a felony or while the offender is on probation, assignment to a community correctional services program, parole, conditional release, or postrelease supervision for a felony, a new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, or



or while the offender is serving a term of commitment to a youth center, probation, assignment to a community correctional services program, or conditional release imposed as a result of a felony adjudication pursuant to the juvenile offenders code,

COLYN TILLOTSON
SENATOR, 3RD DISTRICT
LEAVENWORTH & JEFFERSON COUNTIES



TOPEKA

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February 13, 1995

Bill draft request reorganizing Kansas parole board
to be introduced by Senate Judiciary Committee

Amend KSA 22-3707 and related sections

An act concerning the Kansas parole board; determining the size of the board, outlining board responsibilities, authorizing the hiring of staff.

1. Reduce board from 5 members to 3 members, gubernatorial appointment, confirmation by senate. Only two members can be from one party.
2. Increase number of staff positions in order to write post-release conditions for inmates released under sentencing guidelines.
3. Adopt travel policies in accordance with state travel regulations.
4. Provide for training of new board members.
5. Establish policies regarding board work hours.