

Approved: 4-5-96
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Tim Emert at 10:00 a.m. on March 25, 1996 in Room 522-S of the Capitol.

All members were present except: Senator Harris (excused)
Senator Oleen (excused)
Senator Moran (excused)
Senator Rock (excused)

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: Representative Adkins
Representative Ballou

Others attending: See attached list

The Chair called the meeting to order and referred to **HB 2700**.

HB 2700--If parole is denied, hearing within 10 years of denial instead of 3 years.

The Chair stated that after the hearings on **HB 2700**, a request was made to the Attorney General regarding a question concerning the constitutionality of this bill raised by Professor Gottleib. The Chair reported that the Attorney General has responded and the sponsors of the bill, the Secretary of Corrections, and the Parole Board have seen the resulting language in the balloon drafted by staff to address the constitutionality question.

The Chair stated that the suggested language on page 9 of the balloon, allows the Board to hold another hearing after the initial hearing not later than one year for crimes other than A or B or off-grid and then one to three years. The time span for A or B or off-grid crimes will be from three to ten years. The Chair stated that this language attempts to incorporate some of the requirements that were in *California v Morales* that possibly were not in this bill before. The language drafted in this balloon provides that in the case of an inmate sentenced for a class A or B felony or off-grid felony, that the board shall hold a parole hearing not later than three years after denial. The balloon adds language providing that unless the parole board finds that it is not reasonable to expect parole will be granted if held in the next ten years or during the interim period of deferral, the parole board could defer subsequent parole hearings up to ten years. The added language requires that the parole board state the basis for its findings. (Attachment 1)

The Chair stated that the original bill allowed the parole board to defer up to 10 years, but did not require that a written determination be made. The presumption would still be three years, however with a written determination if the Board finds it is unreasonable to expect parole, then they could defer up to 10 years.

Representative Ballou stated that on C, D and E felonies the offender will get two chances. The first one guaranteed, the second one within three years is guaranteed.

In response to a Committee member's question Representative Ballou stated that the families of victims who had testified understand that the prisoners already in prison will get their next parole hearing.

The Chair stated that the Parole Board expressed concerns with the provisions in the bill and the House Committee amendment which would require the Board to set restitution. The Chair stated that the sponsors of the bill have agreed to remove language concerning the Parole Board setting restitution beginning at the end of line 15 with the word, "if" down through line 31.

A motion was made by Parkinson, seconded by Senator Bond to strike the language referring to the Parole

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Board setting restitution as written on page 10 of the original bill, at the end of line 15 starting with the word "if" down through line 31. The motion carried.

A motion was made by Senator Parkinson, seconded by Senator Petty to adopt the balloon. The motion carries.

A Committee member stated that the issue of clemency had been discussed during the hearings on **HB 2700**. The Committee members and staff discussed reviewing the clemency issue.

A motion was made by Senator Parkinson, seconded by Senator Bond to recommend **HB 2700** favorably for passage as amended by the Committee. The motion carried.

The Chair recessed the meeting until 11:00 a.m.

The Chair reconvened the meeting at 11:00 a.m. and introduced Representative Adkins to present a review of **HB 2900**.

HB 2900--Kansas juvenile justice reform act.

Representative Adkins discussed a memorandum prepared by staff to highlight the provisions of **HB 2900**. Representative Adkins explained that while **HB 2900** appears to be a bulky piece of legislation, that many of the changes are technical in nature or contain minor nomenclature changes. The conferee stated that many other sections involve transferring certain SRS responsibilities and authority to the Commissioner of Juvenile Justice beginning July 1, 1997 and a result of that is to reprint the entire statutory section in which any minor change is contained. The conferee stated that the immediate impact of the bill is also significant and yet is a cautious approach to the transition of problems confronting the juvenile justice system. The conferee stated that this legislation is significant because it articulates the new vision for Kansas's juvenile justice system and asks that the legislature confirm that vision. This legislation continues to ask the Youth Authority to be a planning agency and to bring back to the next legislative session a transition plan, that will answer many of the more difficult questions that are left on the table. The conferee stated that the Youth Authority was created at the last legislative session and after being appointed in June of 1995 began working by holding public hearings and working in a collaborative manner to develop the recommendations that are now incorporated in **HB 2900**. (Attachment 2)

Representative Adkins reviewed some of the sections of **HB 2900**. The conferee stated that the mission statement was set forth as a preamble with public safety and reforms to enhance the accountability of the system.

The conferee stated that the reforms include recommendations regarding sentencing, moving toward a community based continuum of placement options, to allow judges more options in probation and placement of youth. The conferee stated a system is needed that is able to maintain community based placement options as well as placement options at the state level. The conferee related that the Youth Authority's sentencing recommendations also include provisions of a Minnesota law concerning dual sentencing under the terms in the bill, it is called extended jurisdiction in a juvenile proceeding. This provision basically allows that the court may give a juvenile sentence to an offender as well as an adult sentence; the adult sentence is stayed during the course of serving the juvenile sentence. If the juvenile offender does not show himself/herself amenable to rehabilitation, the adult sentence can be imposed.

The conferee stated with the presumption of burden of proof any juvenile-age 10 or more could be waived to adult status. The conferee stated that in no event is there an automatic waiver to adult status as there is in current law.

The conferee stated that the Youth Authority recommended that because of the violent and chronic offender, a maximum security program within the juvenile justice system is needed. The conferee stated that a needs assessment would need to be made. That needs assessment is provided for in the Governor's budget and is part of the transition plan to be reported back to the legislature next year. It is believed that current youth centers population may be breeding grounds for future criminal activity instead of venues in which responsible rehabilitation can occur. The conferee related that because it is recognized that many juvenile offenders are one time only offender, a series of intermediate intervention options were developed, as opposed to diversion. These options will allow for a greater sense of accountability, and reduce spending on those one-time offenders.

The conferee discussed the Youth Authority's recommendations for provisions concerning parental responsibility, and holding parents fiscally responsible for their child's behavior. The conferee spoke of

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involving parents in the rehabilitation process.

The conferee addressed a number of system infrastructure reforms concerning the duties of the Commissioner of Juvenile Justice and how the Juvenile Justice System will be organized. The conferee spoke of the mission of youth centers. The conferee discussed the prevention component, and the establishment of an endowment for youth. The conferee stated that there are a number of nomenclature changes in this bill with the goal of furthering accountability.

The conferee stated that intake and assessment remains the cornerstone of the juvenile justice system. The conferee stated that an effective intake and assessment system allows resources to be appropriately allocated, and allows communities to determine risk factors.

The conferee explained that intake and assessment would be expanded to the extent that information sought at the state level will be required. The conferee discussed the development of an information system that is adequate, accessible and on-line.

The conferee discussed the need for the provisions in **HB 2900** regarding information sharing. The conferee stated that the Youth Authority wanted to articulate that information needs to be openly shared by all entities dealing with juveniles including educational institutions.

The conferee stated that this bill provides that records and proceedings will be open to a greater extent than currently required by law.

Representative Adkins discussed the transition plan to be brought to the legislature next year that calls for the Youth Authority to continue working on a transition plan. The conferee stated that while this bill and the provisions of this bill have enjoyed a broad consensus of support, the transition plans that the Youth Authority will bring to this legislature next session will bring significant battles concerning implementation.

The transition plan will have to address issues of local governance, issues of funding sources and funding streams and the allocation of those resources. The conferee stated that the first difficulty will come when the Governor in his budget this fall has to determine what resources within SRS will be transferred to the Commissioner of Juvenile Justice. The conferee suggested that although legislation currently on the books requires the appointment of the Commissioner of Juvenile Justice beginning July 1, 1997, provisions of this bill would allow for contracting with an individual beginning January 1, 1997--in the hopes that if the Governor was amenable to appointing someone for the six month transition period that individual could be appointed at the beginning of the process of transition.

The conferee reported that the implementation of the new juvenile justice system will progress in a cautious manner. This will allow for the identification, implementation and evaluation of pilot programs in order to determine successful programs for statewide implementation. The conferee reported that when the new juvenile justice system is fully implemented, it will cost more money than what is currently spent on juvenile justice, and therefore, it will be necessary to be more firm in advocacy of the choices that have to be made. The conferee concluded by stating that **HB 2900** addresses the initiation of reform and creation of a structure for reform, but next year the state will need to determine how to pay for the reform.

The Committee members and the conferee discussed tracking of juveniles entering the system and the challenge of developing a case management system.

The Committee members and the conferee discussed Section 125, requiring compulsory school attendance until age 18. Representative Adkins stated that this provision was included to provide some safety net for parents under the parental responsibility umbrella.

Representative Adkins reported that it was the subcommittee's recommendation that driving privileges be lost for not attending school.

The Chair stated an issue discussed during subcommittee is the sharing of information and stated that schools were taken out due to federal law and the Buckley amendment, and that the House Committee put them back in the bill.

Representative Adkins stated that the Youth Authority wanted to mention schools but "to the extent allowed by law" in that list of entities sharing information. Discussion regarding court ordered release of information for schools followed.

In addressing issues of due process for dual sentencing, Representative Adkins stated that the subcommittee report adopted by the House Committee does include a provision that any youth certified for dual adjudication

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would be afforded a jury trial and right to counsel. The provision also provides that the court will determine not to include both sentences, thus allowing the court some flexibility. The conferee stated that due process has faced some court challenges in Minnesota it has not been overturned yet and hopefully having a year before enactment, will allow for modification of Kansas law if necessary to reflect due process requirements. In response to questions regarding the degree of consensus on this proposed legislation, Representative Adkins stated that this vision was embraced by judges and that Judge Burgess a member of Youth Authority, has explained it to his juvenile judges who were supportive. One of the biggest challenges is figuring out how court services fit into case management concept in the future. The conferee discussed the need to develop a transition plan that will be effective and meaningful and call for court judges to come back with specific recommendation.

The issue of a truancy board being placed in the bill as recommended by the subcommittee was discussed by the Chair and the conferee.

The Committee discussed the financing for commissioner of the Juvenile Justice System and federal money available for the hiring of the Commissioner as a consultant during the transition period.

Representative Adkins addressed the provision of the bill dealing with insurance stating that the custody of the child not be used for exclusion of coverage. The conferee stated that the language could be refined during the next year to provide insurers some safeguards and determination of where insurance is reimbursement needs to be provided. The conferee offered that language needs to be developed that directs the Commissioner to prorogate rules and regulations within certain perimeters or establish those perimeters within the statute.

The Chair referred to written testimony by Gene Johnson in support of **HB 2900**. (Attachment 3)

Mark Gleeson, OJA requested some clean-up language adding community corrections into the loop for sharing information both on K.S.A.38-1507 and K.S.A.38-1608. The conferee stated that the provision was already in another bill, **SB 583**.

The Chair announced that the Committee will work the bill on Wednesday.

The Chair adjourned the meeting.

The next meeting is scheduled for March 27, 1996.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3-25-96

NAME	REPRESENTING
Julienne Mascher	AG office
MARCELLA LEHRMAN	KS Sentencing Comm.
Julie Meyer	KS Sentencing Comm.
Carla Bryson	KADACA / Ks. Alliance on A/D
Gene Johnson	KS ASAD
Harry Allen	SRS
Teresa Markowitz	SRS
Sue Chase	KUFA
Roger A. VanEtten	SRS-ERU
Whitney Deming	Kansas Bar Assn.
Nancy Albenha	Atty. General
Jenese Haman	HIAA
Jan Johnson	KDOC
Brian Vazquez	SRS
Jim Clark	KCPAA
Kim Gully	League of KS Municipalities
James Spiess	Ks. Assoc. of Counties
Helen Stephens	KPOA / KSA

HOUSE BILL No. 2700

By Representatives Ballou and Toplikar, Adkins, Aurand, Ballard, Becker, Beggs, Benlon, Boston, Bradley, Bryant, Compton, Cornfield, Cox, Dean, Dillon, Donovan, Edmonds, Empson, Farmer, Findley, Flower, Franklin, Freeborn, Gatlin, Geringer, Gilmore, Goodwin, Graeber, Grant, Haley, Hayzlett, Horst, Howell, Hutchins, Jennison, Jones, Kejr, King, Phill Kline, Krehbiel, Landwehr, Lane, Lloyd, Long, Luthi, Mason, Mayans, Mays, McClure, Mollenkamp, Morrison, Myers, B. Nichols, O'Connor, O'Neal, Packer, Pauls, Powell, Powers, Pugh, Samuelson, Shallenburger, Shore, Snowbarger, Standifer, Swenson, Tanner, Thimesch, Tomlinson, Vickrey, Wagle, Weber, Weiland, Wempe, Wilson and Yoh

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20 AN ACT concerning crimes, punishment and criminal procedure; relating
21 to parole; amending K.S.A. 21-4720 and 22-3717 and repealing the
22 existing sections.

23
24 *Be it enacted by the Legislature of the State of Kansas:*

25 Section 1. K.S.A. 21-4720 is hereby amended to read as follows: 21-
26 4720. (a) The provisions of subsections (a), (b), (c), (d), (e) and (h) of
27 K.S.A. 21-4608 and amendments thereto regarding multiple sentences
28 shall apply to the sentencing of offenders for crimes committed on or
29 after July 1, 1993, pursuant to the sentencing guidelines system as pro-
30 vided in this act. The mandatory consecutive requirements contained in
31 subsections (c), (d) and (e) shall not apply if such application would result
32 in a manifest injustice.

33 (b) The sentencing judge shall otherwise have discretion to impose
34 concurrent or consecutive sentences in multiple conviction cases. *The*
35 *sentencing judge shall state on the record if the sentence is to be served*
36 *concurrently or consecutively. Whenever the record is silent as to the*
37 ~~manner in which two or more sentences imposed at the same time shall~~
38 ~~be served, they shall be served concurrently, except as provided in sub-~~
39 ~~sections (c), (d) and (e) of K.S.A. 21-4608 and amendments thereto.~~ In
40 cases where consecutive sentences may be imposed by the sentencing
41 judge, the following shall apply:

42 (1) When the sentencing judge imposes multiple sentences consec-
43 utively, the consecutive sentences shall consist of an imprisonment term

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1 employment, and attitude of the inmate in prison; the reports of such
2 physical and mental examinations as have been made; comments of the
3 victim and the victim's family; comments of the public; official comments;
4 and capacity of state correctional institutions.

5 (i) In those cases involving inmates sentenced for a crime committed
6 after July 1, 1993, the parole board will review the inmates proposed
7 release plan. The board may schedule a hearing if they desire. The board
8 may impose any condition they deem necessary to insure public safety,
9 aid in the reintegration of the inmate into the community, or items not
10 completed under the agreement entered into under K.S.A. 75-5210a and
11 amendments thereto. The board may not advance or delay an inmate's
12 release date. Every inmate while on postrelease supervision shall remain
13 in the legal custody of the secretary of corrections and is subject to the
14 orders of the secretary.

15 (j) Within a reasonable time after an inmate is committed to the cus-
16 tody of the secretary of corrections, a member of the Kansas parole board,
17 or a designee of the board, shall hold an initial informational hearing with
18 such inmate and other inmates.

19 (k) Before ordering the parole of any inmate, the Kansas parole board
20 shall have the inmate appear before it and shall interview the inmate
21 unless impractical because of the inmate's physical or mental condition
22 or absence from the institution. Every inmate while on parole shall remain
23 in the legal custody of the secretary of corrections and is subject to the
24 orders of the secretary. Whenever the Kansas parole board formally con-
25 sidered placing an inmate on parole and no agreement has been entered
26 into with the inmate under K.S.A. 75-5210a and amendments thereto,
27 the board shall notify the inmate in writing of the reasons for not granting
28 parole. If an agreement has been entered under K.S.A. 75-5210a and
29 amendments thereto and the inmate has not satisfactorily completed the
30 programs specified in the agreement, or any revision of such agreement,
31 the board shall notify the inmate in writing of the specific programs the
32 inmate must satisfactorily complete before parole will be granted. If pa-
33 role is not granted only because of a failure to satisfactorily complete such
34 programs, the board shall grant parole upon the secretary's certification
35 that the inmate has successfully completed such programs. If an agree-
36 ment has been entered under K.S.A. 75-5210a and amendments thereto
37 and the secretary of corrections has reported to the board in writing that
38 the inmate has satisfactorily completed the programs required by such
39 agreement, or any revision thereof, the board shall not require further
40 program participation. However, if the board determines that other per-
41 tinent information regarding the inmate warrants the inmate's not being
42 released on parole, the board shall state in writing the reasons for not
43 granting the parole. If parole is denied for an inmate sentenced for a

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34

1 crime other than a class A or class B felony or an off-grid felony, the
 2 board shall hold another parole hearing for the inmate not later than one
 3 ~~year~~ ~~five~~ ~~three years~~ after the denial. If parole is denied for an inmate
 4 sentenced for a class A or class B felony or an off-grid felony, the board
 5 shall hold another parole hearing for the inmate not later than three ~~10~~
 6 years after the denial ~~and shall conduct an annual file review for such~~
 7 ~~inmate. Written notice of such annual file review shall be given to the~~
 8 ~~inmate. The provisions of this subsection shall not be applicable to in-~~
 9 ~~mates sentenced for crimes committed on or after July 1, 1993.~~

off-grid

one year

unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings

10 (l) Parolees and persons on postrelease supervision shall be assigned,
 11 upon release, to the appropriate level of supervision pursuant to the cri-
 12 teria established by the secretary of corrections.

three

13 (m) The Kansas parole board shall adopt rules and regulations in
 14 accordance with K.S.A. 77-415 *et seq.*, and amendments thereto, not in-
 15 consistent with the law and as it may deem proper or necessary, with
 16 respect to the conduct of parole hearings, postrelease supervision reviews,
 17 revocation hearings, orders of restitution and other conditions to be im-
 18 posed upon parolees or releasees. Whenever an order for parole or post-
 19 trelease supervision is issued it shall recite the conditions thereof.

unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to 10 years but any such deferral shall require the board to state the basis for its findings.

20 (n) Whenever the Kansas parole board orders the parole of an inmate
 21 or establishes conditions for an inmate placed on postrelease supervision,
 22 the board

23 (1) Unless it finds compelling circumstances which would render a
 24 plan of payment unworkable, shall order as a condition of parole or pos-
 25 trelease supervision that the parolee or the person on postrelease super-
 26 vision pay any transportation expenses resulting from returning the pa-
 27 rolee or the person on postrelease supervision to this state to answer
 28 criminal charges or a warrant for a violation of a condition of probation,
 29 assignment to a community correctional services program, parole, condi-
 30 tional release or postrelease supervision;

31 (2) to the extent practicable, shall order as a condition of parole or
 32 postrelease supervision that the parolee or the person on postrelease su-
 33 pervision make progress towards or successfully complete the equivalent
 34 of a secondary education if the inmate has not previously completed such
 35 educational equivalent and is capable of doing so; and

36 (3) may order that the parolee or person on postrelease supervision
 37 perform community or public service work for local governmental agen-
 38 cies, private corporations organized not-for-profit or charitable or social
 39 service organizations performing services for the community.

40 (o) If the court which sentenced an inmate specified at the time of
 41 sentencing the amount and the recipient of any restitution ordered as a
 42 condition of parole or postrelease supervision, the Kansas parole board
 43 shall order as a condition of parole or postrelease supervision that the

MEMORANDUM

Kansas Legislative Research Department

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March 22, 1996

To: Senate Judiciary Committee

From: Jerry Ann Donaldson, Principal Analyst

Re: Issues Contained in H.B. 2900, with Subcommittee Recommendations and the House Committee Amendments (see Sections 8, 23, and 69)

Section 1 -- Citation. The Juvenile Justice Reform Act of 1996.

Section 2 -- Mission Statement.

- Juvenile Offenders Code (current law) will be known as Juvenile Justice Code.
- Primary goal is public safety; hold juveniles accountable for behavior; improve the ability of juveniles to live productively and responsibly.
- Policies developed under the Code will be designed to:
 - ▶ protect public safety;
 - ▶ recognize solutions to juvenile crime lie in strengthening families and education involvement of the community, and implementation of effective prevention and early intervention programs;
 - ▶ be community based;
 - ▶ be family centered;
 - ▶ facilitate efficient and effective cooperation, coordination, and collaboration among agencies of local, state, and federal government;
 - ▶ be outcome-based with effective and accurate assessment of program performance;
 - ▶ be cost effective;

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- ▶ encourage the recruitment and retention of well qualified, highly trained professionals for all components of the system;
- ▶ appropriately reflect community norms and public priorities; and
- ▶ encourage public and private partnerships to address community risk factors.

New Section 3 -- Powers and duties of the Commission of Juvenile Justice.

The Commission will establish divisions in the Juvenile Justice Authority as follows.

- **Operations.** The Commission will monitor:
 - ▶ The juvenile intake and assessment system regarding juvenile offenders;
 - ▶ provide technical assistance and help facilitate community collaboration;
 - ▶ license juvenile correctional facilities, programs, and providers;
 - ▶ assist in coordinating a statewide system of community-based service providers;
 - ▶ establish pilot projects for community-based service providers; and
 - ▶ operate the juvenile correctional facilities.

- **Research.** The Commissioner will:
 - ▶ generate, analyze, and utilize data to review existing program and identify effective prevention programs;
 - ▶ develop new program initiatives and restructure existing program; and
 - ▶ assist communities in risk assessment and effective resource utilization.

- **Contracts.** The Commissioner will:
 - ▶ secure the services of direct providers by contracting with providers which can include nonprofit, private, or public agencies. Contracts will be with local services providers, when available, to provide 24-hour intake and assessment services.

- local communities, by interlocal agreements, can participate in intake and assessment services.

- Performance Audit. The Commissioner will:
 - randomly audit contracts to determine that service providers are performing as required.

In addition, the Commissioner will:

- adopt rules and regulations as needed to administer the Act;
- administer all state and federal funds appropriated to the Juvenile Justice Authority;
- administer the development and implementation of a Juvenile Justice Information System;
- administer the transition to and implementation of juvenile justice system reforms;
- coordinate with the judicial branch any duties and functions which effect the Juvenile Justice Authority;
- serve as a resource to the Legislature and other state policymakers;
- make and enter into all contracts and agreements and any other acts necessary to carry out the duties and powers under the Act;
- accept custody of juvenile offenders according to court placement;
- assign juveniles in custody to juvenile correctional facilities based on information from the reception and diagnostic evaluation, intake and assessment report (see Section 7), and the predispositional investigation report;
- establish and utilize a reception and diagnostic evaluation for all juvenile offenders prior to placement in a juvenile correctional facility;
- assist judicial districts establish community-based placement options, community corrections services, and aftercare transition services for juvenile offenders;
- review, evaluate, and restructure the goals of juvenile correctional facilities to accommodate greater specialization for each facility; and

- adopt rules and regulations to encourage the sharing of information between individuals and agencies.

Section 4 -- The same as current law (K.S.A. 76-12a19).

Section 5 -- The same as current law (K.S.A. 76-12a20).

Section 6 -- The same as current law for subsections (a), (b), and (c) (K.S.A. 76-12a21).

Subsections (d), (e), and (f) provide:

- the Commissioner will not provide a pass, furlough, or leave to an institutionalized juvenile except for needed medical service or for reintegration into the community;
- all institutions will have perimeter security plan with fencing when appropriate; and
- the Commissioner will, by rules and regulations, establish a rigid grooming code and issue uniforms to juveniles held in a state juvenile correctional facility.

Section 7 -- Provides the following.

- The Supreme Court will provide through administrative orders for the establishment of a Juvenile Intake and Assessment System and for the establishment and operation of juvenile intake and assessment programs in each Judicial District. After July 1, 1997, the Commissioner will take over this duty.
- SRS can contract with the Commissioner to provide for the intake and assessment system and programs for children in need of care (CINC).
- All records, etc. obtained as a part of intake and assessment will be confidential and nondisclosable, except as provided by this Act, Supreme Court Rule, or by rule and regulation.
- No intake and assessment records, reports, and information can be admitted as evidence in any proceeding or used in a CINC proceeding except for diagnostic and referral purposes and by the court for dispositional alternative purposes. Mandatory reporting of child abuse or neglect records may be used in any CINC proceeding.
- After intake and assessment for a juvenile taken into custody by a law enforcement officer, the intake and assessment worker can do the following:
 - ▶ collect information such as:
 - a standardized risk assessment tool,
 - criminal history,
 - abuse history,

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- substance abuse history;
 - history of prior community services used,
 - educational history,
 - medical history, and
 - family history.
- ▶ release the child to parental or legal guardian custody if in the best interest of the child; and
- ▶ conditionally release the child, as above, if certain conditions are met that would be in the best interest of the child. Conditions can include:
- participation of the child in counseling;
 - participation of the child's family in counseling;
 - participation of the child and family and relevant others in mediation;
 - referral to SRS services;
 - referral to community services;
 - requiring a behavioral contract to provide for regular school attendance, among other requirements; and
 - any special conditions necessary to protect the child from future abuse or neglect.
- ▶ deliver the child to a shelter facility or licensed care center which will take custody; or
- ▶ refer the child to a prosecutor for appropriate proceedings or to SRS for investigation purposes.

Section 8 -- "Dual Sentencing."

- Upon an extended jurisdiction prosecution resulting in a guilty plea or finding of guilt, the court must:
 - ▶ impose one or more juvenile sanctions;

- ▶ impose an adult criminal sentence to be stayed on the condition the juvenile offender not violate the provisions of the juvenile sentence and not commit a new offense.

- Upon violation of the conditions of a stayed sentence, the court may revoke the stay and direct the juvenile offender be taken into immediate custody for imposition of the "adult" sentence. Provisions are included for notice of the revocation.

- A juvenile serving a juvenile sentence, upon reaching 18, can have a court hearing to review the juvenile sentence. If imposition of the juvenile sentence is continued, another review will be conducted within 36 months.

- A juvenile subject to dual sentencing provisions will have a right to counsel and a jury trial. (This provision was added by the House Committee.)

Section 9 --

- An assignment of support rights of a child in custody can be conveyed to the Commissioner, when appropriate. Procedures for assignment are contained in this section.

Section 10 -- Same as current law (K.S.A. 75-3335).

Section 11 -- Same as current law (K.S.A. 75-3335a).

Section 12 -- Same as current law (K.S.A. 75-3336).

Section 13 -- Same as current law (K.S.A. 75-3336a).

Section 14 --

- An interagency agreement between the Department of Corrections (DOC) and SRS will be developed in order to construct a maximum security correctional facility(ies) for violent, chronic, and serious juvenile offenders, as well as accommodate other services and functions.

Section 15 --

- Health insurance policies cannot deny health insurance benefits to a child in custody of the Commissioner.

Section 16 -- Expense reimbursement

- Contains provisions requiring repayment, to the Commissioner or others, for services and assistance provided to the juvenile.

Section 17 -- Child support

- Failure to pay child support rights that have been assigned to SRS is added as a condition that can lead to a contempt finding. Also, a failure to pay support, as ordered, can result in a restriction of driving privileges such as driving to and from and in the course of employment.

Section 18 -- Technical cleanup.

Section 19 -- Technical cleanup.

Section 20 -- Technical cleanup.

Section 21 -- Technical cleanup.

Section 22 -- Technical cleanup.

Section 23 --

- Expands the crime of contributing to a child's misconduct or deprivation to include contributing to a juvenile's violation of terms or conditions of probation.
- Another expansion includes the failure to comply with a court order requiring parents to participate in court ordered services. (The House Committee deleted this provision.)

Section 24 -- Technical cleanup.

Section 25 --

- Designates the Juvenile Justice Authority as a criminal justice agency with access to criminal history record information.

Section 26 -- Technical cleanup.

Section 27 -- Technical cleanup.

Section 28 -- Technical cleanup.

Section 29 -- Definition of juvenile intake and assessment worker as an individual authorized to perform intake and assessment services (see Section 7).

Section 30 --

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- Allows the official file of a CINC to be shared with a placement provider or court services officer.

Section 31 --

- Allows certain CINC records and reports received by SRS to be accessed by the Child Death Review Board or juvenile intake and assessment workers.

Section 32 --

- Licensed social workers sharing information under the Juvenile Justice Code will not be subject to review by the Behavioral Sciences Regulatory Board.

Section 33 --

- Allows certain CINC records and reports to be shared by certain individuals and agencies.

Section 34 --

- Includes juvenile intake and assessment workers to the list of individuals who must report suspected child abuse or neglect.

Section 35 -- Technical cleanup.

Section 36 -- Technical cleanup.

Section 37 -- Technical cleanup.

Section 38 -- Technical cleanup.

Section 39 -- Technical cleanup and provides for waiver of a juvenile to the adult criminal justice system.

Section 40 -- Provides for an extension of jurisdiction, for placement purposes, of a juvenile offender until the age of 23 unless an adult sentence is imposed under which jurisdiction will continue until discharged by the court or other adult sentence process.

Section 41 -- Technical cleanup.

Section 42 -- Technical cleanup.

Section 43 -- After July 1, 1996, allows for expanded disclosure of juvenile offender court records (official file) to any placement provider or potential placement provider, as well as juvenile intake and assessment workers.

- Section 44 -- After July 1, 1997, allows for open official files for juveniles, regardless of age, unless there is a judicial determination that disclosure would not be in the best interest of the juvenile. If a determination against disclosure is made, the current prohibition against disclosure of an official file and identifying information of the victim will be in place.
- Section 45 -- Technical cleanup and expansion of disclosure for juvenile offenders under 16.
- Section 46 -- Allows disclosure of juvenile offender medical, diagnostic, and treatment records upon request of a juvenile intake and assessment worker when the information is needed for screening, assessment, or placement decisions, but a juvenile intake and assessment worker is not allowed to further disclose unless approved by the court.
- Section 47 -- Technical cleanup and contains a provision regarding who can access expunged records.
- Section 48 -- Technical cleanup.
- Section 49 -- Technical cleanup.
- Section 50 -- Technical cleanup and contains provisions regarding how the expenses of juvenile offenders are to be paid.
- Section 51 -- Technical cleanup and allows the Commissioner to contract for the collection of reimbursement monies as covered in other sections.
- Section 52 -- A reportable event for a juvenile offender is expanded to include the issuance of an intake and assessment report.
- Section 53 -- Technical cleanup and, after July 1, 1997, to expand a reportable event to include the report from a reception and diagnostic center.
- Section 54 -- Provides that the Juvenile Offender Information System will be operational and functional by July 1, 1997 unless an extension of time is granted by the Criminal Justice Coordinating Council.
- Section 55 -- Technical cleanup and adds a provision for access to juvenile offender information by an educational institution if the juvenile is required to attend the institution as part of an immediate intervention program or post release supervision..
- Section 56 -- Technical cleanup.
- Section 57 -- Expands the options of where a law enforcement officer, who takes a juvenile offender into custody, can place the juvenile to include an intake and assessment worker if an intake and assessment program exists. The worker will be allowed to release the juvenile after the process and prior to a detention hearing if the worker believes the juvenile will appear for further proceedings and will not be dangerous to self or others. The juvenile intake and assessment worker is required to furnish the prosecutor with a written copy of information collected.

Section 58 -- After July 1, 1997, when a law enforcement officer takes an alleged juvenile offender into custody, the provisions above apply, but an agreement pursuant to Section 62 would be required before an intake and assessment worker could release the juvenile.

Section 59 -- Technical cleanup.

Section 60 -- Technical cleanup.

Section 61 -- Technical cleanup.

Section 62 --

- Allows for the following:
 - ▶ courts may adopt policies for immediate intervention programs as follows:
 - the court, prosecutor, and director of intake and assessment, in accord with a written agreement, can develop local programs to:
 - * provide for direct referral of cases to youth courts, restorative justice centers, citizen review boards, hearing officers, or other local programs approved by the court;
 - * allow intake and assessment workers to issue a summons;
 - * allow the intake and assessment centers to directly purchase services for the juvenile and the juvenile's family; and
 - * allow intake and assessment workers to direct the release of a juvenile prior to a detention hearing upon a belief the juvenile will show up for further proceedings and will not be dangerous to self or others.

Section 63 -- July 1, 1997, for a juvenile 14, 15, 16, or 17 years of age who commits an offense, which, if committed by an adult, would be an off-grid felony, a person felony, a severity level 1 to 6 felony, or a drug severity level 1 or 2 felony or was committed while in the possession of a firearm or was charged with a felony after being convicted or adjudicated in a prior juvenile proceeding for committing an act that would be a felony if committed by an adult, and which occurred before the date of the new act (charge) and before the sentence or evidentiary hearing, the prosecutor may seek to prosecute the juvenile as an adult. The juvenile will be presumed to be an adult. The burden of proof will be on the juvenile (and his/her counsel) to rebut the presumption.

After proceedings are commenced, but before sentencing or the beginning of an evidentiary hearing, the prosecutor can request an extended jurisdiction juvenile prosecution and if the respondent fits the circumstances as outlined above, the burden of proof is on the juvenile to rebut the designation of extended jurisdiction.

The court may allow an extended jurisdiction juvenile prosecution if there is substantial evidence for such a prosecution.

Section 64 -- Technical cleanup.

Section 65 -- Technical cleanup.

Section 66 -- Technical cleanup.

Section 67 -- Technical cleanup.

Section 68 -- Technical cleanup.

Section 69 -- Unless it is not in the best interest of the juvenile, court proceedings will be open to the public. (The House Committee deleted this provision and, as a result, Section 69 reverts back to current law).

Section 70 -- Technical cleanup.

Section 71 -- Technical cleanup.

Section 72 -- Technical cleanup.

Section 73 -- Technical cleanup.

Section 74 -- Technical cleanup.

Section 75 -- Technical cleanup.

Section 76 -- Technical cleanup.

Section 77 -- Expands the dispositional options available for juvenile offenders to include ordering the parents of a juvenile offender to participate in parenting classes and, if the juvenile offender is adjudicated for certain alcohol or drug-type offenses, the court can require the parents to attend an alcohol and drug safety action program with the juvenile offender.

Section 78 -- Technical cleanup and provides a reporting form to be used by foster parents.

Section 79 -- Technical cleanup.

Section 80 -- Technical cleanup.

Section 81 -- A parent, guardian, or person with whom a juvenile resides may be ordered to report any probation violations. Under current law, these designated persons are required to aid in enforcing terms and conditions of probation.

Section 82 -- Technical cleanup.

Section 83 -- Technical cleanup.

Section 84 -- July 1, 1997, upon release from a juvenile correctional facility, the Commissioner, to ensure compliance with the conditions of release, may require parents or guardians of a juvenile offender to cooperate and participate in fulfilling the conditions of release.

Section 85 -- Technical cleanup.

Section 86 -- Technical cleanup and, July 1, 1997, unless a juvenile is sentenced under an extended jurisdiction juvenile prosecution and the Commissioner transfers the juvenile to the custody of the Secretary of Corrections, the juvenile can be conditionally released, at 23 years of age.

Section 87 -- Technical cleanup.

Section 88 -- Technical cleanup.

Section 89 -- Technical cleanup.

Section 90 -- Technical cleanup.

Section 91 -- Technical cleanup and procedure for placement and waiver to the adult criminal system.

Section 92 -- Technical cleanup.

Section 93 -- Technical cleanup and procedure for placement at a juvenile correctional facility, waiver to the adult criminal system, and extended jurisdiction sentence.

Section 94 -- Technical cleanup.

Section 95 -- Technical cleanup.

Section 96 -- Technical cleanup.

Section 97 -- Technical cleanup.

Section 98 -- Technical cleanup.

Section 99 -- Technical cleanup.

Section 100 -- Technical cleanup.

Section 101 -- Technical cleanup.

Section 102 -- Technical cleanup.

Section 103 -- Technical cleanup.

Section 104 -- Technical cleanup.

Section 105 -- Technical cleanup.

Section 106 -- Technical cleanup.

Section 107 -- Technical cleanup.

Section 108 -- Technical cleanup.

Section 109 -- Technical cleanup.

Section 110 -- Reference parental responsibility for health insurance. See Section 15.

Section 111 -- Same as Section 110.

Section 112 -- Same as Section 110.

Section 113 -- Same as Section 110.

Section 114 -- Same as Section 110.

Section 115 -- Technical cleanup.

Section 116 -- Technical cleanup.

Section 117 -- Technical cleanup.

Section 118 -- Technical cleanup.

Section 119 -- Technical cleanup.

Section 120 -- Technical cleanup.

Section 121 -- Requires school attendance up to the age of 18. (Current law is 16.) If child is 16 or 17 a parent may, in a written consent, allow a child to be exempt from this requirement.

Section 122 -- Same as Section 121.

Section 123 -- Technical cleanup.

Section 124 -- Technical cleanup.

Section 125 -- Technical cleanup.

Section 126 -- Technical cleanup.

Section 127 -- July 1, 1997, designates the Commissioner of Juvenile Justice as a member of the Criminal Justice Coordinating Council with access to juvenile offender information.

Section 128 -- Technical cleanup.

Section 129 -- Technical cleanup.

Section 130 -- Technical cleanup.

Section 131 -- Technical cleanup.

Section 132 -- On January 1, 1997, a Commissioner of Juvenile Justice may be appointed by the Governor to carry out the transfer of powers and duties from SRS regarding juvenile offenders to the Juvenile Justice Authority and the Commissioner.

Section 133 -- Technical cleanup.

Section 134 -- Requires a comprehensive transitional plan for the transfer of power, duties, and functions from SRS and other state agencies regarding juvenile offenders to the Juvenile Justice Authority and the Commissioner, as well as a plan for a juvenile offender placement matrix, a plan for aftercare services upon release from a juvenile correctional facility, a plan in coordination with SRS to consolidate the functions of juvenile offender and CINC intake and assessment services (on a 24-hour basis), a plan to recommend how all juveniles in police custody will be processed, and a plan for the transfer from a state-based juvenile justice system to a community-based system based on judicial districts. The Youth Authority would be required to develop such a plan for consideration by the 1997 legislature.

- Additionally, the Youth Authority shall:
 - ▶ in coordination with SRS, seek to coordinate the state's efforts to prevent juvenile drug and alcohol abuse;
 - ▶ with SRS, develop a comprehensive strategy for prevention and early intervention for juvenile offenders, including risk assessment;
 - ▶ annually recognize six individuals or organizations that have made significant and positive contributions to Kansas youth;
 - ▶ recognize one male and one female Kansas youth for significant and positive contributions to the eradication of youth risk factors; and
 - ▶ appoint an Advisory Youth Council.

The bill creates the Kansas Endowment for Youth Fund to fund prevention programs for youths. The Youth Authority will be able to accept grants and donations, public and private, for the Fund. Procedures are outlined for administering the Fund.

Section 135 -- Provides for the membership and length of term of the Youth Authority. The Attorney General, Chief Justice of the Supreme Court, and Commissioner of Education, or designees, will be ex officio members of the Authority.

Section 136 -- Technical cleanup.

Section 137 -- Technical cleanup.

Section 138 -- Until July 1, 1997, SRS would be prohibited from issuing a pass, furlough, or leave for any institutionalized juvenile except for medical services or reintegration in the community. If a pass, furlough, or leave is granted, a staff member or designated adult will accompany the juvenile. All institutions will have a perimeter security plan. Grooming codes will be established and uniforms will be issued to juvenile offenders in the custody of SRS. (Same provisions set forth in Sec. 6 regarding the Commissioner beginning July 1, 1997.)

Section 139 -- Technical cleanup.

Section 140 -- Technical cleanup.

Section 141 -- Technical cleanup.

Section 142 -- Technical cleanup.

Section 143 -- Technical cleanup.

Section 144 -- The Commissioner will be authorized to issue work assignments to juveniles in custody who are placed in a Juvenile Correctional Facility.

Section 145 -- Technical cleanup.

Section 146 -- Technical cleanup.

Section 147 -- Technical cleanup.

Section 148 -- Technical cleanup.

Section 149 -- Technical cleanup.

Section 150 -- Technical cleanup.

Section 151 -- Severability clause.

Section 152 -- July 1, 1996, repealer section.

Section 153 -- July 1, 1997, repealer section.

Section 154 -- Effective date: statute book.

Testimony
Senate Judiciary Committee
March 25, 1996
House Bill 2900

Good Morning, Chairman Emert and Members of the Committee,

My name is Gene Johnson and I represent the Kansas Community Alcohol Safety Action Project Coordinators Association. Our Association is composed of members throughout the State of Kansas who conduct pre-sentence alcohol and drug evaluations for those persons convicted or receiving a diversion from the charge of DUI, under K.S.A. 8-1567. In addition, we provide prevention and education services to the courts throughout the State to those persons under the age of 21 who have violated our Kansas alcohol and drug laws.

It is my pleasure to appear before you this morning in support of House Bill 2900. This legislation will provide a very much needed sweeping change in our juvenile justice system. We are particularly supportive of House Bill 2900 in its effort to promote public safety and also as a means to hold juvenile offenders accountable for their own behavior. We believe the juvenile justice policies which have been developed in this legislation, will strengthen solutions to juvenile crime by addressing families and educational institutions.

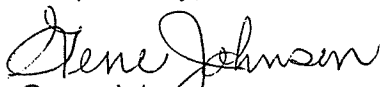
We are also supportive of this legislation which allows each Judicial District to be largely responsible and have input to those community based programs within each district.

We are also in support of public and private partnerships formed to address community risk factors and provide local community programs aimed at rehabilitating the youth of our State.

The members of the Kansas Community Alcohol Safety Action Project Coordinators Association pledge their support on a community level to bring about positive changes in our juvenile justice system with the aid of House Bill 2900.

We support House Bill 2900, as it is now written, as a step forward in the prevention and intervention of juvenile crime in the State of Kansas.

Respectfully,


Gene Johnson
Legislative Liaison

Kansas Community Alcohol Safety Action Project Coordinators Association

Sen. Jud.
3-25-96
Attach 3