

Approved: Bl 3/4/99
Date

MINUTES OF THE SENATE EDUCATION COMMITTEE.

The meeting was called to order by Chairperson Senator Barbara Lawrence at 9:00 a.m. on February 18, 1999 in Room 123-S of the Capitol.

All members were present except: Senator Hensley

Committee staff present: Avis Swartzman, Revisor
Ben Barrett, Legislative Research
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Senator Vratil
Patricia Baker, KASB
Steve Dickerson, KTLA

Others attending: See Attached List

SB 191 - school safety and security; reporting of information

Vice-Chairperson Langworthy called the meeting to order and called on Senator Vratil to begin the testimony. (Attachment 1)

Senator Vratil's stated he was present to testify in favor of the bill. He stated that there is no definition of "knowledge" in the statutes. What he is hearing from his constituents is that because of lack of a definition of the word "knowledge" in the act, it could require a school employee to report information that is gathered at a barber shop, beauty shop or on main street; it could be totally inaccurate knowledge.

Senator Vratil does not think that was the intention of the Legislature when it amended the statute last year. What the bill does is to provide a definition of "knowledge". That definition is familiarity because of direct involvement or observation of any incident specified in subsection (b) [the wrongful act]. That definition is intended to insure that any person who is required to report will have either (1) observed the wrongful act, or (2) have had direct involvement.

Senator Vratil continued, stating that the bill also requires a school employee with knowledge of a wrongful act to report such knowledge to the superintendent of schools, who is required to investigate that knowledge. If verified, the information and name of student will be provided to all school employees in teaching or providing other school related services to the student. The superintendent may delegate the responsibility. Identity of the student and nature of the act need only be reported to school employees who are likely to come into contact with the student in question.

Senator Vratil drew attention to his proposed amendment on page 3, line 41 and continuing on page 4 through line 9. These are the immunity provision in the act. They are somewhat confusing, if not redundant; the redundancy creates an ambiguity. He stated he realized the necessity for protecting those who are involved in reporting wrongful acts from a civil liability. What his amendment would do is indicate that these employees would not be liable for civil damages if they, in good faith, engaged in any acts or omissions in compliance with the requirements of the school safety and security act. The immunity is not taken away, just putting a good faith standard in instead. He stated the new language is only about one-third as long as the language that is there.

Senator Vratil was directed to page 2, line 18. There seems to be some confusion because most of the things that are listed under subsection b are either judicial orders or actions of other school boards.

Senator Vratil gave a hypothetical example.

The comment was made that this was the way the law was intended; that the knowledge was with the person of the receiving school district. The concern is that there would never be a case where the employee at the receiving school would ever qualify as to having knowledge the way knowledge is written in this bill.

CONTINUATION SHEET

MINUTES OF THE SENATE EDUCATION COMMITTEE, Room 123-S Statehouse, at 9:00 a.m. on February 18, 1999.

Senator Vratil gave another hypothetical example.

A committee member said that part of the original emphasis was on students moving from one school district to another. This act was really intended to notify districts that had no knowledge of a new student coming in who had been in trouble. The receiving district would never have direct involvement or observation of a specific incident.

One of the committee members asked if the bill could be clarified on page 2, line 18, but Senator Vratil commented that there might be trouble with 'substantiated reports'.

After several further comments, Senator Vratil said that this focuses on the dilemma and the question has to be asked, is rumor or innuendo going to be used as a source of knowledge that we want to use to adversely use to affect the good name of the student for the benefit of school safety.

A reply was that actions are not driven on rumor, but that is not what drives the reaction, it is the verification of the information. Schools are not getting the information until it is too late to make preparation.

The question of the sharing of this information with school personnel was asked; would there be a sharing with the various employees involved such as aides, school bus drivers, and so forth.

Senator Vratil responded that he did not have enough history to comment accurately.

The statement was made that before making any suggested changes on the bill, the committee needs to know what is going on with the law at this time; what is the effect of what has been passed thus far.

Patricia Baker, KASB, appeared in support of the bill (Attachment 2), stating that as there are a number of bills dealing with the Kansas School Safety and Security Act being heard in the legislature this session, they would like to request that at some point all of these issues be addressed together.

Ms. Baker said that after working with school administrators for a year, they are trying very hard to do what is expected of them. They are very confused. She had just returned from a meeting with approximately seventy building administrators in west-central Kansas, who are pummeling them with questions on how to do this. Their complaint is that they cannot get information from the other schools. It does not come in in a timely manner.

The Vice-Chairperson commented to Senator Vratil that since he sits on the Judiciary committee, he would have an opportunity to work on the bill and return at a later time.

Steve Dickerson, KTLA, addressed the bill, stating that the present immunity language in the school safety and security act is so broad that even a school official who acts in bad faith or with malice is excused from liability. (Attachment 3) His organization is in support of Senator Vratil's amendment.

Testimony by Craig Grant, KNEA, was distributed to the committee (Attachment 4)

The Vice-Chairperson that this closed the hearing on **SB 191**. As there was still time left to the committee, she stated that the two bills that were going to be taken care of at the rail on Friday, would be done in committee today. She asked the Revisor to explain the cleanup on **SB 200 - university of Kansas school of medicine scholarships; reconciling a conflict in the definition of state medical care facility or institution** and **SB 201 - medical student loan act**.

The Revisor stated that each bill contains a section that was amended twice last year. All that would occur is some technical cleanup to reconcile them.

Senator Emert moved that SB 200 and SB 201 be passed and placed on the Consent Calendar. Senator Umbarger gave a second to the motion. The motion carried.

The meeting was adjourned.

February 18, 1999

**Testimony of Senator John Vratil
Before the Senate Committee on Education
on Senate Bill 191
Pertaining to the School Safety and Security Act**

CURRENT LAW

The Kansas School Safety and Security Act pertains to a student who has been expelled for certain specified acts, a student who has been adjudicated to be a juvenile offender for committing an act which would constitute a felony, and a student who has been convicted of a felony. It requires every school employee who has "knowledge" of one of those situations to report that knowledge and to identify the student to a school administrator. The administrator is then required to inform all other school employees of the identity of the student and the fact that the student has been expelled for one of the specified acts, has been adjudicated a juvenile offender, or has been convicted of a felony. **There is no definition of "knowledge" in the statute.** The knowledge which triggers a report to all school employees could be information passed around at the barber shop or the beauty shop. It could be totally inaccurate knowledge. I do not believe that is what the drafters of this legislation intended.

Another provision of the Act requires that **all** school employees be informed of the identity of the student and the nature of the wrongful act committed by the student. That requirement exists under current law whether or not a school employee is likely to come into contact with the student in question. In larger school districts, it is highly unlikely that most school employees will ever come into contact with a dangerous student. Notification of all school employees is an unnecessary burden which can be reasonably avoided.

PROPOSED AMENDMENTS TO THE ACT

Senate Bill 191 defines "knowledge" to mean "familiarity because of direct involvement or observation of any incident specified in subsection (b)" [the wrongful act]. That definition is intended to insure that any person who is required to report will have either (1) observed the wrongful act, or (2) have had direct involvement. Therefore, there is much less chance that inaccurate information will be reported.

Senate Bill 191 also requires a school employee with knowledge of a wrongful act to report such knowledge to the superintendent of schools. The superintendent of schools is required to investigate the matter and, upon verifying the information reported, provide the information and the identity of the student to all school employees "who are directly involved or likely to be directly involved in teaching or providing other school related services to the pupil." The intent is that the superintendent may delegate this responsibility. By channeling information through the superintendent's office and requiring addition verification of the information, it is less likely that inaccurate information will be reported to school employees.

*Senate Education
Attachment 1
2-18-99*

Finally, the identity of the pupil and nature of the wrongful act need only be reported to school employees who are likely to come into contact with the student in question. This will save time and resources of the school district and will help avoid unnecessary emotional responses to the reported information.

Thank you for your time and attention to this matter.

KANSAS
ASSOCIATION



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Testimony on Senate Bill No. 191
before the
Senate Education Committee

by
Patricia E. Baker
Deputy Executive Director/General Counsel
Kansas Association of School Boards
February 18, 1999

Madam Chairman, members of the committee, we appreciate the opportunity to appear in support of Senate Bill 191. We believe that the provisions of this bill clarify the procedures which school employees are required to follow in alerting employees to the presence of potentially dangerous students.

As there are a number of bills dealing with the Kansas School Safety and Security Act being heard by the legislature this session, we would also like to request that at some point all of these issues be addressed together.

I have attached copies of Senate Bill 203, which will be heard in the Senate Judiciary Committee today. We would request that this committee consider amending Senate Bill 191 by substituting new Section 2 on page 2, lines 2 through 21, the language found in Senate Bill 203, Section 5 on page 11, lines 20 through 43 and on page 12, lines 1 through 5.

Also, House Bill 2201, which had hearings in the House Education Committee earlier this week has provisions for changing what is reported to law enforcement by school employees. We recommend the language in that bill which simplifies the reporting requirements.

At this time, we have not had the opportunity to put these provisions together, but would appreciate the opportunity to do so.

Thank you.

*Senate Education
Attachment 2
2-18-99*

KANSAS SENATE COMMITTEE ON EDUCATION
SENATE BILL 191

The Kansas Trial Lawyers Association (KTLA) appears as a conferee on SB 191 to announce its support of an amendment to subsection (g) of Section 3 of the bill (at page 3, line 41 to page 4, line 9). The amendment importantly clarifies the scope of the nonliability component of the Kansas school safety and security act. KTLA takes no position on the other aspects of SB 191.

The Kansas school safety and security act establishes reporting procedures or protocols for a school's handling of information that a pupil presents a risk of harm to others. During the 1998 Legislature the act was expanded to include a provision that confers immunity upon school boards, administrators and employees for any acts or omissions relating to the requirements or provisions of the act. The immunity language was adopted as a floor admendment in the Senate and was never subjected to the analysis and debate of a committee hearing.

"Immunity" legislation insulates wrongdoers from accountability for their wrongful acts, sacrifices safety, carries a high potential to harm Kansas families and represents unsound public policy. The present immunity language in the school safety and security act is so broad that even a school official who acts in bad faith or with malice is excused from liability.

The amendment appropriately narrows the grant of nonliability and provides that no school official shall be liable for damages in a civil action resulting from the person's good faith acts or omissions in complying with the act. This change brings a well recognized standard of conduct to the act, protects responsible, well-intentioned school officials, and establishes a needed measure of accountability.

*Senate Education
Attachment 3
2-18-99*



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

Craig Grant Testimony
Senate Education Committee
Thursday, February 18, 1999

Madame Chair and Members of the Senate Education Committee: please accept this written testimony as I am out of the state today. Mark Desetti is testifying on another issue at this time. We definitely wanted to issue a statement on SB 191.

We have no problem with defining "knowledge" as the bill does on page two, lines 18-21. We still believe that the definition is subject to interpretation because of the words "direct involvement or observation." We still believe that if information comes to the attention of a school employee--for example, if the counselor receives records from another school or SRS that a pupil is a problem as defined by the bill--that the information should be passed on to the other employees even though the employee had no "direct involvement or observation." A tighter definition of "knowledge" might be better to help with safe schools.

The main problem with SB 191 is the new section at the bottom of the first page. Kansas NEA does not believe there needs to be a filter to get important information about potentially dangerous students to the employees of the district. That is why we brought the problem to the legislature in the first place. Administrators were keeping knowledge from teachers and making judgments as to the severity of the "crime." Administrators afraid of "labeling a student" too often withheld important information from the professionals in the classroom. This resulted in situations which might have been avoided.

Kansas NEA hopes that you can craft a bill with a good definition of "knowledge" and eliminate the filter from the statute. Safe schools are important to everyone--we cannot keep valuable information a secret from the school employees who are trying to keep our schools safe. Thank you for listening to our concerns.

*Senate Education
Attachment 4
2-18-99*