

Approved Feb 24, 2000
Date

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:05 a.m. on February 23, 2000 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Jerry Donaldson, Research
Mary Blair, Secretary

Conferees appearing before the committee:

None

Others attending: see attached list

The minutes of the February 22nd meeting were approved on a motion by Senator Bond, seconded by Senator Goodwin. Carried.

SB 429—regarding driving under the influence of alcohol or drugs; concerning suspension of drivers license

Senator Vratil reviewed the subcommittee hearing on SB 429 and moved to pass the bill out favorably as recommended by the subcommittee, Senator Bond seconded. Carried. (see 2-21 minutes attachment 1)

SB 578—concerning courts; regarding collection of debts owed

The subcommittee's hearing on SB 578 had been reviewed by Senator Pugh at the 2-21 meeting but no action was taken at that time. Senator Vratil explained that the bill needed to be amended to correct an error and he moved to amend the bill to add to present law the authority of a chief judge of a judicial district to contract for collection of court costs, fees, and other such items and to pass the bill out favorably as amended, Senator Bond seconded. Carried. (see 2-21 minutes attachment 2)

SB 489—concerning dealers and manufacturers licensing act; relating to owning, acting as or controlling new vehicle dealers, sale and delivery of vehicles and responsibility with respect thereto; prescribing certain prohibited acts

SB 489 was heard in full Committee on 2-16 whereupon it was decided that interested parties would work together to find amendments to the bill that would be satisfactory to all. Senator Emert reviewed these amendments.(attachment 1) Following lengthy discussion, Senator Harrington moved to adopt the amendments and pass the bill out favorably, Senator Vratil seconded. Carried.

SB 370—concerning children; regarding guardians ad litem

Senator Oleen reviewed her subcommittee's hearing on SB 370. Following discussion it was decided that no action would be taken on the bill at this time.(attachment 2)

SB 490—regarding community corrections; placement of offenders

Senator Oleen reviewed her subcommittee's hearing on SB 490 which establishes group adult offenders who may be placed in community corrections programs. Following lengthy discussion and consideration of the recommendations by the DOC and the Sentencing Commission, Senator Oleen moved to adopt the balloon amendment as recommended by the subcommittee and pass the bill out favorably as amended, Senator Goodwin seconded. Carried. (see attachment 2)

SB 491—regarding probation and suspension of sentence, jail confinement; conditional violators, dispositions post release supervision

Senator Oleen reviewed her subcommittee's hearing on SB 491 which amends the law dealing with probation and supervision of sentence to increase the county jail time permitted from 30 to 120 days, permits certain violators of conditions of release to be assigned to community corrections and alters post release supervision periods for certain crime severity levels. Lengthy discussion followed. Senator Harrington moved to amend HB 2724 into SB 491, Senator Feleciano seconded. Carried. Further discussion followed. Senator Oleen

moved to amend the bill adopting the balloon amendments as recommended by subcommittee and pass the bill out favorably as amended, Senator Goodwin seconded. Carried. (see attachment 2)

SB 530—child support enforcement; establishing Kansas payment center; income withholding

Senator Oleen reviewed **SB 530** which makes certain amendments to the child support enforcement law. Following lengthy discussion with some clarification by a representative from SRS, the Chair recommended the bill be blessed and discussed at a later date.(see attachment 2)

SB 447—concerning civil procedure; regarding subpoenas of business records

At the Chair's request, Senator Vratil moved to reconsider **SB 447** which was passed favorably out of Committee on 2-22, Senator Bond seconded. Carried. Senator Vratil moved to amend **SB 447** to include the language "including staff time required to make the information available" on pg 2 at line 16 after the word "records" and before the word "may", Senator Goodwin seconded. Carried. (attachment 3)

The meeting adjourned at 11:02 a.m. The next scheduled meeting is February 24.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 23, 2011

NAME	REPRESENTING
Marilyn Jacobson	SRS
Harry Tiffany	KDOR - Vehicles
David Clauser	KDOR attorney
Sheila Walker	KDOR - DMV
Rick Scheibe	KDOR - DMV
Don McNEELY	KS Automobile Dealers Assn.
PAT BARNES	Kr. Automobile Dealers Assn
Whitney Damron	KS Auto Dealers Assn.
Paul Davis	KS Bar Assn
Self Bottenberg	State Farm
Sten Parsons	Smoot + Associates
Jane Noh	A.G.
Nancy Lindberg	Atty
Totaled Shomburg	UDOT
Edward Bechard	KCDAA
Sandra Brader	Alliance of Automobile Manufacturers
Judy Melin	16. Assn of Counties
Rene Fenton	Johnson County
Ken	Hein Weir ChFD.



KANSAS AUTOMOBILE DEALERS ASSOCIATION

February 23, 2000

To: Chairman Emert and the Members of the Senate Committee on Judiciary

From: Don L. McNeely, KADA President

Re: Amendments to SB 489

Good morning, Chairman Emert and Members of the Senate Committee on Judiciary. My name is Don McNeely and I serve as the President of the Kansas Automobile Dealers Association (KADA), which represents the franchised new car and truck dealers in Kansas. Joining me this morning is Mr. Pat Barnes, KADA's General Counsel and Mr. Whitney Damron, our Legislative Counsel. As always, the members of the Kansas Automobile Dealers Association (KADA) are willing to work as much as possible with all parties affected by industry legislation within the confines of the goals to be achieved. With respect to SB 489, we have made every effort that we can to be responsible and responsive to the concerns of others to the extent we can do so given the reasons for which this legislation has been brought.

Please find attached to my testimony a balloon indicating those amendments, which were requested by others to which we have consented. Additional amendments requested by the opposition during the hearing on SB 489 and since the hearing have been declined as being inconsistent with the intent and purpose of the proposed legislation, or because such amendments would take too much away from the language needed to address the problem.

On behalf of the Kansas Automobile Dealers Association, we thank you for your consideration and respectfully request your support of SB 489 as set forth in the attached proposed amended format. At this time, I would like to introduce KADA's General Counsel, Mr. Pat Barnes, who will outline the proposed balloon amendments to SB 489, which we have agreed with the manufacturers to include with our proposal.

800 S.W. Jackson, Suite 1110 • Topeka, KS 66612

Telephone (785) 233-6456 • Fax (785) 233-1462

Don McNeely
2-23-00
att 1

2-20-00 - all amendments.

Session of 2000

SENATE BILL No. 489

By Committee on Judiciary

1-26

10 AN ACT concerning the dealers and manufacturers licensing act; relating
11 to owning, acting as or controlling new vehicle dealers; sale and deliv-
12 ery of vehicles and responsibilities with respect thereto; prescribing
13 certain prohibited acts.
14

15 *Be it enacted by the Legislature of the State of Kansas:*
16

17 Section 1. (a) Except as provided by this section, and notwithstand-
18 ing any other provisions of the vehicle dealers and manufacturers licens-
19 ing act, with respect to motor vehicles, a first stage manufacturer of ve-
20 hicles or second stage manufacturer of vehicles, factory branch,
21 distributor branch, or distributor, distributor or factory representative,
22 may not directly or indirectly:

- 23 (1) Own an interest in a new vehicle dealer or dealership;
- 24 (2) operate or ~~control~~ a new vehicle dealer or dealership; or
- 25 (3) act in the capacity of a new vehicle dealer or dealership, or oth-

26 erwise sell new vehicles at retail.
27 (b) A first stage manufacturer or second stage manufacturer of ve-
28 hicles, factory branch, distributor branch, or distributor, distributor or
29 factory representative may own an interest in a franchised dealer or deal-
30 ership, or otherwise control a dealership, for a period not to exceed 12
31 months from the date the first or second stage manufacturer of vehicles,
32 factory branch, distributor branch, or distributor, distributor or factory
33 representative, acquires the dealership if:

- 34 (1) The person from whom the dealer or dealership was acquired was
35 a new vehicle dealer; and
- 36 (2) the dealership is for sale by the first stage manufacturer or second
37 stage manufacturer of vehicles, factory branch, distributor branch, or dis-
38 tributor, distributor or factory representative, at a reasonable price and
39 on reasonable terms and conditions.

40 (c) On a showing of good cause by a first stage manufacturer or sec-
41 ond stage manufacturer of vehicles, factory branch, distributor branch,
42 or distributor, distributor or factory representative, as the case may be,
43 the director may extend the time limit set forth in subsection (b) for a
period of not to exceed 12 months. ~~An existing new vehicle dealer in new-~~

← delete the word "control"

one time

1 ~~motor vehicle;~~
 2 ~~extension if it is a party to a franchise agreement for the same line-~~
 3 ~~vehicle as that dealer or dealership for which application for extension~~
 4 ~~has been made and is located within the same relevant market area as~~
 5 ~~defined in this section for that dealer or dealership.~~
 6 (d) For the purpose of broadening the diversity of its dealer body and
 7 enhancing opportunities for qualified persons who are part of a group
 8 who have historically been under-represented in its dealer body, or other
 9 qualified persons who lack the resources to purchase a dealership out-
 10 right, but for no other purpose, a first stage manufacturer or second stage
 11 manufacturer of vehicles, factory branch, distributor branch, or distrib-
 12 utor, distributor or factory representative, may temporarily own an inter-
 13 est in a new vehicle dealer or dealership if the first or second stage man-
 14 ufacturer of vehicles, factory branch, distributor branch, or distributor,
 15 distributor or factory representative's participation in the new vehicle
 16 dealer or dealership is in a bona fide relationship with a new vehicle dealer
 17 who:
 18 (1) Has made a significant investment in the new vehicle dealer or
 19 dealership, which is subject to loss;
 20 (2) has an ownership interest in the new vehicle dealer or dealership;
 21 and
 22 (3) operates the new vehicle dealer or dealership under a plan to
 23 acquire full ownership of the new vehicle dealer or dealership within a
 24 reasonable time and under reasonable terms and conditions.
 25 (f) ~~(g) The words or phrases used in this section shall have the meanings~~
 26 otherwise provided by law, except the following specific words or phrases:
 27 (1) "Dealership" means any physical premises, equipment, and busi-
 28 ness facilities on or with which a new vehicle dealer operates its business,
 29 including the sale or repair of motor vehicles. Dealership includes prem-
 30 ises or facilities at which a person engages in the repair of motor vehicles
 31 if repairs are performed pursuant to the terms of a franchise agreement
 32 or a motor vehicle manufacturer's warranty;
 33 (2) "line-make vehicle" means those new motor vehicles which are
 34 offered for sale, lease or distribution under a common name, trademark,
 35 service mark or brand name of the manufacturer or distributor of the
 36 same;
 37 (3) "relevant market area" means the area within:
 38 (A) A radius of 10 miles around an existing new vehicle dealer in new
 39 motor vehicles, if the existing new vehicle dealer's location is in a county
 40 having a population of 30,000 or more persons;
 41 (B) a radius of 15 miles around an existing new vehicle dealer in new
 42 motor vehicles, if the existing new vehicle dealer's principal location is in
 43 a county have a population of less than 30,000 persons; or

1 ~~(C) the area of responsibility defined in the franchise agreement of~~
 2 ~~the existing dealer, whichever is greater.~~
 3 ~~(f) The provisions of this section shall not apply to a first stage man-~~
 4 ~~ufacturer or second stage manufacturer of vehicles, factory branch, dis-~~
 5 ~~tributor branch, or distributor, distributor or factory representative as to~~
 6 ~~only those dealers or dealerships which are already owned by such first~~
 7 ~~stage manufacturer or second stage manufacturer of vehicles, factory~~
 8 ~~branch, distributor branch, or distributor, distributor or factory represen-~~

(e) A first stage manufacturer of vehicles or a second stage manufacturer of vehicles may own a minority interest in a entity that owns and operates a new vehicle dealer, licensed under the dealers and manufacturer's licensing act, of the line-make manufactured by the first or second stage manufacturer if all of the new vehicle dealers owned and operated by the entity in this state are new vehicle dealers of only the line-make manufactured by the manufacturer and if, on January 1, 2000, (1) there were not more than two new vehicle dealers of that line-make licensed as new vehicle dealers in this state, and (2) at the time the manufacturer first acquires an ownership interest or assumes operation or control, the distance between any new vehicle dealer owned and operated by an entity in which the manufacturer has an ownership interest and the nearest unaffiliated new vehicle dealer of the same line-make is not less than 100 miles."

(g)

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... as the case may be.
Sec. 2. (a) In addition to any other restrictions or requirements imposed by law, no first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor or factory representative may deliver a motor vehicle in this state to a person in this state, unless such motor vehicle is delivered to the person by a vehicle dealer licensed to do business in the state of Kansas pursuant to the dealers and manufacturers licensing act and as provided in this section. Unless otherwise provided by law, all new motor vehicles shall be delivered as required by this section by a new vehicle dealer and in the case of used motor vehicles, then by a new vehicle dealer or used vehicle dealer.

(b) The requirements of this section shall not apply to:
(1) A person to whom the provisions of subsection (v) of K.S.A. 1999 Supp. 8-2404, and amendments thereto, apply;
(2) motor vehicles delivered by one licensed motor vehicle dealer to another within the scope of such license, including those delivered by first stage manufacturers and second stage manufacturers to each other;
(3) deliveries of motor vehicles, including those which are used, to new vehicle dealers for resale in this state by such new vehicle dealer;
(4) deliveries of used motor vehicles to auction motor vehicle dealers, used vehicle dealers and salvage vehicle dealers for resale in this state; and
(5) (A) deliveries of motor vehicles to first stage converters and second stage converters for the construction and sale of motor vehicles produced by such licensee; or
(B) the resulting motor vehicles so constructed and produced by such licensee if it has not historically relied primarily upon franchise agreements with new vehicle dealers for the retail sale in this state of a material portion of the motor vehicles it produces and does not primarily utilize or rely upon franchise agreements between itself and new vehicle dealers for the retail sale in this state of new motor vehicles produced by such first or second stage converter.
Sec. 3. If a transaction for the sale of a new motor vehicle which does not take place in the state of Kansas requires or allows delivery in the

who is a party to a franchise agreement for the same line-make of vehicle as that to be delivered

The term "line-make" as used in this section shall have the same meaning as that defined for this term in K.S.A. 1999 Supp. 8-2430(e), and amendments thereto.

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state of Kansas, then such new motor vehicle shall be deemed to have been sold in this state for purposes of meeting the definition set forth in subsection (a)(2) of K.S.A. 50-645, and amendments thereto, upon delivery of such motor vehicle within the state of Kansas to a consumer as defined in subsection (a)(1) of K.S.A. 50-645, and amendments thereto, and the new motor vehicle shall thereafter be subject to the provisions of K.S.A. 50-645 and 50-646, and amendments thereto.
Sec. 4. No dealer may aid or abet a person in violating the dealers and manufacturers licensing act.
Sec. 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
Sec. 6. This act shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.
Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

EXPLANATION OF AMENDMENTS TO SB 489

Amendments to SB 489 include striking the word “control” from line 23 of the bill leaving terminology sufficient to deal with inappropriate restraining or directing influences dealt with by this legislation without a material difference in authority. Other amendments clarify various issues and preserve an exception or grandfather clause for a presently existing non-traditional undeveloped manufacturer owned system.

SENATE BILL No. 489

By Committee on Judiciary

1-26

10 AN ACT concerning the dealers and manufacturers licensing act; relating
11 to owning, acting as or controlling new vehicle dealers; sale and deliv-
12 ery of vehicles and responsibilities with respect thereto; prescribing
13 certain prohibited acts.
14

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

16 Section 1. (a) Except as provided by this section, and notwithstand-
17 ing any other provisions of the vehicle dealers and manufacturers licens-
18 ing act, with respect to motor vehicles, a first stage manufacturer of ve-
19 hicles or second stage manufacturer of vehicles, factory branch,
20 distributor branch, or distributor, distributor or factory representative,
21 may not directly or indirectly:

22 (1) Own an interest in a new vehicle dealer or dealership;

23 (2) operate ~~or control~~ a new vehicle dealer or dealership; or

24 (3) act in the capacity of a new vehicle dealer or dealership, or oth-
25 erwise sell new vehicles at retail.

26 (b) A first stage manufacturer or second stage manufacturer of ve-
27 hicles, factory branch, distributor branch, or distributor, distributor or
28 factory representative may own an interest in a franchised dealer or deal-
29 ership, or otherwise control a dealership, for a period not to exceed 12
30 months from the date the first or second stage manufacturer of vehicles,
31 factory branch, distributor branch, or distributor, distributor or factory
32 representative, acquires the dealership if:

33 (1) The person from whom the dealer or dealership was acquired was
34 new vehicle dealer; and

35 (2) the dealership is for sale by the first stage manufacturer or second
36 stage manufacturer of vehicles, factory branch, distributor branch, or dis-
37 tributor, distributor or factory representative, at a reasonable price and
38 on reasonable terms and conditions.

39 (c) On a showing of good cause by a first stage manufacturer or sec-
40 ond stage manufacturer of vehicles, factory branch, distributor branch,
41 or distributor, distributor or factory representative, as the case may be,
42 the director may extend the time limit set forth in subsection (b) for a
43 period of not to exceed 12 months. ~~An existing new vehicle dealer in new~~

← delete the word "control"

[one time

~~motor vehicles and~~
~~extension if it is a party to a franchise agreement for the same line make~~
~~vehicle as that dealer or dealership for which application for extension~~
~~has been made and is located within the same relevant market area as~~
~~defined in this section for that dealer or dealership.~~

(d) For the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been under-represented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, but for no other purpose, a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, may temporarily own an interest in a new vehicle dealer or dealership if the first or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative's participation in the new vehicle dealer or dealership is in a bona fide relationship with a new vehicle dealer who:

- (1) Has made a significant investment in the new vehicle dealer or dealership, which is subject to loss;
 - (2) has an ownership interest in the new vehicle dealer or dealership;
- and
- (3) operates the new vehicle dealer or dealership under a plan to acquire full ownership of the new vehicle dealer or dealership within a reasonable time and under reasonable terms and conditions.

(f) ~~(e)~~ The words or phrases used in this section shall have the meanings otherwise provided by law, except the following specific words or phrases:

(1) "Dealership" means any physical premises, equipment, and business facilities on or with which a new vehicle dealer operates its business, including the sale or repair of motor vehicles. Dealership includes premises or facilities at which a person engages in the repair of motor vehicles if repairs are performed pursuant to the terms of a franchise agreement or a motor vehicle manufacturer's warranty;

(2) "line-make vehicle" means those new motor vehicles which are offered for sale, lease or distribution under a common name, trademark, service mark or brand name of the manufacturer or distributor of the same;

~~(3) "relevant market area" means the area within:~~

~~(A) A radius of 10 miles around an existing new vehicle dealer in new motor vehicles, if the existing new vehicle dealer's location is in a county having a population of 30,000 or more persons;~~

~~(B) a radius of 15 miles around an existing new vehicle dealer in new motor vehicles, if the existing new vehicle dealer's principal location is in a county have a population of less than 30,000 persons; or~~

~~(C) the area of responsibility defined in the franchise agreement of the existing dealer, whichever is greater.~~

~~(f) The provisions of this section shall not apply to a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative as to only those dealers or dealerships which are already owned by such first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory represen-~~

(e) A first stage manufacturer of vehicles or a second stage manufacturer of vehicles may own a minority interest in a entity that owns and operates a new vehicle dealer, licensed under the dealers and manufacturer's licensing act, of the line-make manufactured by the first or second stage manufacturer if all of the new vehicle dealers owned and operated by the entity in this state are new vehicle dealers of only the line-make manufactured by the manufacturer and if, on January 1, 2000, (1) there were not more than two new vehicle dealers of that line-make licensed as new vehicle dealers in this state, and (2) at the time the manufacturer first acquires an ownership interest or assumes operation or control, the distance between any new vehicle dealer owned and operated by an entity in which the manufacturer has an ownership interest and the nearest unaffiliated new vehicle dealer of the same line-make is not less than 100 miles."

(g)

10 Sec. 2. (a) In addition to any other restrictions or requirements im-
11 posed by law, no first stage manufacturer or second stage manufacturer
12 of vehicles, factory branch, distributor branch, or distributor or factory
13 representative may deliver a motor vehicle in this state to a person in this
14 state, unless such motor vehicle is delivered to the person by a vehicle
15 dealer licensed to do business in the state of Kansas pursuant to the
16 dealers and manufacturers licensing act and as provided in this section.
17 Unless otherwise provided by law, all new motor vehicles shall be deliv-
18 ered as required by this section by a new vehicle dealer and in the case
19 of used motor vehicles, then by a new vehicle dealer or used vehicle
20 dealer.

8-1
who is a party to a franchise agreement for the same
line-make of vehicle as that to be delivered

21 (b) The requirements of this section shall not apply to:
22 (1) A person to whom the provisions of subsection (v) of K.S.A. 1999
23 Supp. 8-2404, and amendments thereto, apply;

The term "line-make" as used in this section shall have
the same meaning as that defined for this term in Section 1,
and amendments thereto.

24 (2) motor vehicles delivered by one licensed motor vehicle dealer to
25 another within the scope of such license, including those delivered by
26 first stage manufacturers and second stage manufacturers to each other;

27 (3) deliveries of motor vehicles, including those which are used, to
28 new vehicle dealers for resale in this state by such new vehicle dealer;

29 (4) deliveries of used motor vehicles to auction motor vehicle dealers,
30 used vehicle dealers and salvage vehicle dealers for resale in this state;
31 and

32 (5) (A) deliveries of motor vehicles to first stage converters and sec-
33 ond stage converters for the construction and sale of motor vehicles pro-
34 duced by such licensee; or

35 (B) the resulting motor vehicles so constructed and produced by such
36 licensee if it has not historically relied primarily upon franchise agree-
37 ments with new vehicle dealers for the retail sale in this state of a material
38 portion of the motor vehicles it produces and does not primarily utilize
39 or rely upon franchise agreements between itself and new vehicle dealers
40 for the retail sale in this state of new motor vehicles produced by such
41 first or second stage convertor.

42 Sec. 3. If a transaction for the sale of a new motor vehicle which does
43 not take place in the state of Kansas requires or allows delivery in the

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1 state of Kansas, then such new motor vehicle shall be deemed to have
2 been sold in this state for purposes of meeting the definition set forth in
3 subsection (a)(2) of K.S.A. 50-645, and amendments thereto, upon deliv-
4 ery of such motor vehicle within the state of Kansas to a consumer as
5 defined in subsection (a)(1) of K.S.A. 50-645, and amendments thereto,
6 and the new motor vehicle shall thereafter be subject to the provisions
7 of K.S.A. 50-645 and 50-646, and amendments thereto.

8 Sec. 4. No dealer may aid or abet a person in violating the dealers
9 and manufacturers licensing act.

10 Sec. 5. If any provision of this act or the application thereof to any
11 person or circumstance is held invalid, the invalidity does not affect other
12 provisions or applications of this act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are severable.

15 Sec. 6. This act shall be a part of and supplemental to the vehicle
16 dealers and manufacturers licensing act.

17 Sec. 7. This act shall take effect and be in force from and after its
18 publication in the Kansas register.

SJrd
2-23
att 2

February 18, 2000

Senator Oleen's Judiciary Subcommittee (February 14, 17, and 18)

1. SB 370 would allow the appointment of a guardian ad litem for any child not attending school.

Proponents: None appeared. Recommendation for the bill came from the 1999 SRS Transition Oversight Committee.

Opponents: Judge Thomas H. Graeber—(See Attachment 1.)

Subcommittee Action: Recommend the bill be killed.

2. SB 461 would amend the child in need of care law dealing with the appointment of a permanent guardian to provide the court should have continued jurisdiction to review the placement.

Proponents: Senator Tim Emert
Judge Thomas Graeber
Joyce Allegrucci

Opponents: None appeared.

Subcommittee Action: Be passed as amended to include Judge Graeber's recommendations.

3. SB 490 establishes group adult offenders who may be placed in community corrections programs. See Section 1 (a) (2) (A) through (E).

Proponents: Barbara Tombs, Sentencing Commission
Charles Simmons, Department of Corrections
Chris Mechler, Kansas Association of Court Services Officers

Opponents: Kathy Porter, OJA—on behalf of Judge Tuggle, wants bill to be held.
Judge Graeber—concerns with the bill.

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Subcommittee Action: Be passed as amended. The recommendations of DOC and the Sentencing Commission are contained in an attachment. (See Attachment 2.) Also consider "subject to appropriations" regarding the assessment tool.

4. SB 491 amends the law dealing with probation and supervision of sentence to increase the county jail time permitted from 30 to 120 days, permits certain violators of conditions of release to be assigned to community corrections and alters post release supervision periods for certain crime severity levels.

Proponents: Tim Madden for Chuck Simmons, DOC
Barbara Tombs, Kansas Sentencing Commission

Opponents: Judge Tuggle—written comments—concern with the bill.

Subcommittee Action: Be passed as amended. These amendments are contained in the attachments. (See Attachments 3 and 4). Also consider the effective date of upon publication in the Kansas Register.

5. SB 530 makes certain amends to the child support enforcement law.

Proponents: Marilyn Jacobson—Department of Social and Rehabilitation Services
Kathy Porter—OJA, informational material presented
Amy Waddle—OJA, informational material presented

Opponents: Jim Johnston—joint custodial parent
Joe Ledbetter—opposition and concerns were expressed via a telephone communication with Senator Oleen. Concerns centered on an escalating fee and Internet access.

Subcommittee Action: Be passed as amended to allow for a waiver of payment of the service fee charged to non IV-D parents who are current in their child support payments. A second amendment would allow a judge to let a non IV-D parent who is current in child support payment to not send payments to the central unit.

- 6. SB 546** amends the law dealing with a sheriff's responsibility to deliver custody of prisoners to the state reception and diagnostic unit.

Proponents: Tim Madden—Department of Corrections

Opponents:

Subcommittee Action: Be passed as recommended. The amendments are contained in the attachments. Consider HB 2724. (See Attachment 5.)

- 7. SB 583** clarifies the definition of traffic offense in regard to the prosecution of juveniles violating traffic laws.

Proponents: No conferees appeared.

Opponents: No conferees appeared.

Subcommittee Action: Return the bill to the full Committee.

J. GRABER
SB 31

SENATE BILL NO. 370

TESTIMONY OF JUDGE THOMAS H. GRABER

FEBRUARY 14, 2000

The apparent purpose of this bill is to make an exception to the requirement of a guardian ad litem for each child who is subject of a child in need of care petition. I urge you to kill this bill and leave the existing provision in effect.

There is really no reason to make any distinction between children nor to afford one less protection under the child in need of care code. The existing provisions were included in the code to assure that each child would have independent representation in the proceedings. That is no less important when the basis for the proceeding is based upon a truancy than for abuse or any other basis. In fact truancy is often a warning sign of the existence of abuse or other problems. It may be the very earliest chance for a meaningful intervention that will avoid a future out of home placement as a child in need of care or for juvenile offender proceedings.

The need for a guardian ad litem was underlined for me in a recent proceeding. The child had clearly been truant. But the guardian as litem's investigation showed that it was caused by a parent who was having trouble controlling the child. The child loved school and was an exceptional student and the parent decided that a good way to punish the child for his wrong behavior was to make him stay home from school. The reasons for this truancy would not have come to light without a guardian ad litem nor would the needed response by the court been ordered. The parent needed to learn other ways to

Attachment 1

control the child's behavior and was given parental education classes so she could learn other methods of effective discipline.

SENATE BILL No. 490

By Committee on Judiciary

1-26

9 AN ACT concerning crimes, criminal procedure and punishment; relat-
 10 ing to community corrections; placement of offenders; amending
 11 K.S.A. 21-4606b and 22-3431 and K.S.A. 1999 Supp. 21-4603, 21-
 12 4603d, 21-4610, 21-4611 and 75-5291 and repealing the existing
 13 sections.

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

16 Section 1. K.S.A. 1999 Supp. 75-5291 is hereby amended to read as
 17 follows: 75-5291. (a) (1) The secretary of corrections may make grants to
 18 counties for the development, implementation, operation and improve-
 19 ment of community correctional services including, but not limited to,
 20 restitution programs, victim services programs, preventive or diversionary
 21 correctional programs, community corrections centers and facilities for
 22 the detention or confinement, care or treatment of ~~adults charged with~~
 23 ~~or convicted of crime~~ offenders as provided in this section except that no
 24 community corrections funds shall be expended by the secretary for the
 25 purpose of establishing or operating a conservation camp as provided by
 26 K.S.A. 75-52.127 and amendments thereto.

27 (2) Placement of offenders in community correctional services pro-
 28 grams by the court shall be limited to placement of adult offenders, con-
 29 victed of a felony offense:

30 (A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the
 31 sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F,
 32 3-G, 3-H, 3-I, 4-E or 4-F of the sentencing guidelines grid for drug crimes;
 33 or

34 (B) whose severity level and criminal history score designate a pre-
 35 sumptive prison sentence on either sentencing guidelines grid but receive
 36 a nonprison sentence as a result of departure; and

37 (C) all offenders convicted of an offense which satisfies the definition
 38 of offender pursuant to K.S.A. 22-4902, and amendments thereto, and
 39 which is classified as a severity level 7 or higher offense and who receive
 40 a nonprison sentence, regardless of the manner in which the sentence is
 41 imposed; and

42 (D) any offender for whom a violation of conditions of release or
 43 assignment or a nonprison sanction has been established as provided in

9-2

2-6

Attachment 2

1 K.S.A. 22-3716, and amendments thereto, ~~when no new felony has been~~
2 ~~committed while the offender is on probation or assignment~~, prior to rev-
3 ~~ocation resulting in the offender being required to serve any time for the~~
4 ~~sentence imposed or which might originally have been imposed in a state~~
5 ~~facility in the custody of the secretary of corrections; and~~

6 (E) any offender who is determined to be "high risk or needs, or both"
7 by the use of a statewide, mandatory, standardized risk assessment tool
8 or instrument utilized by a court service officer ~~prior to revocation of the~~
9 ~~offender's probation.~~ ~~^~~

10 (3) The court may require an offender for whom a violation of con-
11 ditions of release or assignment or a nonprison sanction has been estab-
12 lished, as provided in K.S.A. 22-3716, and amendments thereto, to serve
13 any time for the sentence imposed or which might originally have been
14 imposed in a state facility in the custody of the secretary of corrections
15 without a prior assignment to a community correctional services program
16 if the court finds and sets forth with particularity the reasons for finding
17 that the safety of the members of the public will be jeopardized or that
18 the welfare of the inmate will not be served by such assignment to a
19 community correctional services program.

20 (b) (1) In order to establish a mechanism for community correctional
21 services to participate in the department of corrections annual budget
22 planning process, the secretary of corrections shall establish a community
23 corrections advisory committee to identify new or enhanced correctional
24 or treatment interventions designed to divert offenders from prison.

25 (2) The secretary shall appoint one member from the southeast com-
26 munity corrections association region, one member from the northeast
27 community corrections association region, one member from the central
28 community corrections association region and one member from the
29 western community corrections association region. The deputy secretary
30 of community corrections and field services shall designate two members
31 from the state at large. The secretary shall have final appointment ap-
32 proval of the members designated by the deputy secretary. The commit-
33 tee shall reflect the diversity of community correctional services with re-
34 spect to geographical location and average daily population of offenders
35 under supervision.

36 (3) Each member shall be appointed for a term of three years, except
37 of the initial appointments, such terms shall be staggered as determined
38 by the secretary. Members shall be eligible for reappointment.

39 (4) The committee, in collaboration with the deputy secretary of com-
40 munity corrections and field services or the deputy secretary's designee,
41 shall routinely examine and report to the secretary on the following issues:

- 42 (A) Efficiencies in the delivery of field supervision services;
- 43 (B) ~~offender assignment decisions;~~

The Kansas Supreme Court shall establish by January 1, 2001, a risk assessment instrument or tool assessing the risk posed by and the needs of offenders to be used by all court service officers; and

(F) as a condition of supervision following the successful completion of a conservation camp program.

(G) Nothing in this act shall prohibit a community corrections program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Provided, however, grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

1 The hearing shall be held within 30 days after the receipt by the court of
2 the chief medical officer's notice.

3 (c) At the hearing, the defendant shall be sentenced, committed,
4 granted probation, assigned to a community correctional services pro-
5 gram, *if provided by K.S.A. 75-5291 and amendments thereto*, or dis-
6 charged as the court deems best under the circumstance. The time spent
7 in a state or local institution pursuant to a commitment under K.S.A. 22-
8 3430 and amendments thereto shall be credited against any sentence,
9 confinement or imprisonment imposed on the defendant.

10 Sec. 8. K.S.A. 21-4606b and 22-3431 and K.S.A. 1999 Supp. 21-4603,
11 21-4603d, 21-4610, 21-4611 and 75-5291 are hereby repealed.

12 Sec. 9. This act shall take effect and be in force from and after its
13 publication in the statute book. ^ _____ January 1, 2001 and

21-4603d(e)

SB491

b-2

ment to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate: (1) Has been sentenced to the secretary for a probation revocation or, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, *or for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H, 3-I, 4-E, or 4-F of the sentencing guidelines grid for drug crimes*; and (2) otherwise meets admission criteria of the camp. If the inmate successfully completes ~~the six-month~~ conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 21-4611 and amendments thereto.

a

(f) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

2-9

Attachment 3

2-10-10
Doe
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REQUESTED AMENDMENT TO

SENATE BILL No. 491
By Committee on Judiciary

AN ACT concerning crimes, criminal procedure and punishment; relating to probation and suspension of sentence, jail confinement; conditional violators, dispositions; postrelease supervision; amending K.S.A. 21-4602 and 22-3716 and K.S.A. 1999 Supp. 21-4603, 21-4603d, 21-4610, and 22-3717 and repealing the existing sections.

The amendment language being requested by the Kansas Sentencing Commission is attached in balloon form.

Attachment of
2-10

SENATE BILL No. 491

By Committee on Judiciary

1-26

9 AN ACT concerning crimes, criminal procedure and punishment; relat-
10 ing to probation and suspension of sentence, jail confinement; condi-
11 tional violators, dispositions; postrelease supervision; amending K.S.A.
12 21-4602 and 22-3716 and K.S.A. 1999 Supp. 21-4603, 21-4603d, 21-
13 4610 and 22-3717 and repealing the existing sections.
14

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

16 Section 1. [▼] K.S.A. 21-4602 is hereby amended to read as follows: 21-
17 4602. As used in K.S.A. 21-4601 through 21-4621, and amendments
18 thereto:

19 (a) "Court" means any court having jurisdiction and power to sen-
20 tence offenders for violations of the laws of this state.

21 (b) "Suspension of sentence" means a procedure under which a de-
22 fendant, found guilty of a crime, upon verdict or plea, is released by the
23 court without imposition of sentence. The release may be with or without
24 supervision in the discretion of the court. In felony cases, the court may
25 include confinement in a county jail not to exceed ~~30~~ 120 days, which
26 need not be served consecutively, as a condition of suspension of sentence
27 pursuant to subsection (b)(4) of K.S.A. 21-4603 and amendments thereto.

28 (c) "Probation" means a procedure under which a defendant, found
29 guilty of a crime upon verdict or plea, is released by the court after im-
30 position of sentence, without imprisonment except as provided in felony
31 cases, subject to conditions imposed by the court and subject to the su-
32 pervision of the probation service of the court or community corrections.
33 In felony cases, the court may include confinement in a county jail not
34 to exceed ~~30~~ 120 days, which need not be served consecutively, as a
35 condition of probation pursuant to subsection (b)(3) of K.S.A. 21-4603
36 and amendments thereto.

37 (d) "Parole" means the release of a prisoner to the community by the
38 Kansas parole board prior to the expiration of such prisoner's term, sub-
39 ject to conditions imposed by the board and to the secretary of correc-
40 tion's supervision. Parole also means the release by a court of competent
41 jurisdiction of a person confined in the county jail or other local place of
42 detention after conviction and prior to expiration of such person's term,
43 subject to conditions imposed by the court and its supervision. Where a

→ [On and after July 1, 2000,]

1 court or other authority has filed a warrant against the prisoner, the Kan-
2 sas parole board or paroling court may release the prisoner on parole to
3 answer the warrant of such court or authority.

4 (e) "Correctional institution" means the Lansing correctional facility,
5 Hutchinson correctional facility, Topeka correctional facility, Norton cor-
6 rectional facility, Ellsworth correctional facility, Winfield correctional fa-
7 cility, Osawatomie correctional facility, Larned correctional mental health
8 facility, Toronto correctional work facility, Stockton correctional facility,
9 Wichita work release facility, El Dorado correctional facility, and any
10 other correctional institution established by the state for the confinement
11 of offenders, and under control of the secretary of corrections.

12 (f) "Community correctional services program" means a program
13 which operates under the community corrections act and to which a de-
14 fendant is assigned for supervision, confinement, detention, care or treat-
15 ment, subject to conditions imposed by the court. A defendant assigned
16 to a community correctional services program shall be subject to the con-
17 tinuing jurisdiction of the court and in no event shall be considered to be
18 in the custody of or under the supervision of the secretary of corrections.

19 (g) "Postrelease supervision," for crimes committed on or after July
20 1, 1993, means the same as provided in K.S.A. 21-4703 and amendments
21 thereto.

22 Sec. 2. [▼] K.S.A. 1999 Supp. 21-4603 is hereby amended to read as
23 follows: 21-4603. (a) Whenever any person has been found guilty of a
24 crime and the court finds that an adequate presentence investigation can-
25 not be conducted by resources available within the judicial district, in-
26 cluding mental health centers and mental health clinics, the court may
27 require that a presentence investigation be conducted by the Topeka
28 correctional facility or by the state security hospital. If the offender is sent
29 to the Topeka correctional facility or the state security hospital for a pre-
30 sentence investigation under this section, the correctional facility or hos-
31 pital may keep the offender confined for a maximum of 60 days, except
32 that an inmate may be held for a longer period of time on order of the
33 secretary, or until the court calls for the return of the offender. While
34 held at the Topeka correctional facility or the state security hospital the
35 defendant may be treated the same as any person committed to the sec-
36 retary of corrections or secretary of social and rehabilitation services for
37 purposes of maintaining security and control, discipline, and emergency
38 medical or psychiatric treatment, and general population management
39 except that no such person shall be transferred out of the state or to a
40 federal institution or to any other location unless the transfer is between
41 the correctional facility and the state security hospital. The correctional
42 facility or the state security hospital shall compile a complete mental and
43 physical evaluation of such offender and shall make its findings and rec-

→ [On and after July 1, 2000,]

1 or cancel a license, remove a person from office, or impose any other civil
2 penalty as a result of conviction of crime.

3 (i) An application for or acceptance of probation, suspended sentence
4 or assignment to a community correctional services program shall not
5 constitute an acquiescence in the judgment for purpose of appeal, and
6 any convicted person may appeal from such conviction, as provided by
7 law, without regard to whether such person has applied for probation,
8 suspended sentence or assignment to a community correctional services
9 program.

10 (j) When it is provided by law that a person shall be sentenced pur-
11 suant to K.S.A. 21-4628, and amendments thereto, the provisions of this
12 section shall not apply.

13 (k) The provisions of this section shall apply to crimes committed
14 before July 1, 1993.

15 Sec. 3. ~~K.S.A. 1999 Supp. 21-4603d~~ is hereby amended to read as
16 follows: 21-4603d. (a) Whenever any person has been found guilty of a
17 crime, the court may adjudge any of the following:

18 (1) Commit the defendant to the custody of the secretary of correc-
19 tions if the current crime of conviction is a felony and the sentence pre-
20 sumes imprisonment, or the sentence imposed is a dispositional departure
21 to imprisonment; or, if confinement is for a misdemeanor, to jail for the
22 term provided by law;

23 (2) impose the fine applicable to the offense;

24 (3) release the defendant on probation if the current crime of con-
25 viction and criminal history fall within a presumptive nonprison category
26 or through a departure for substantial and compelling reasons subject to
27 such conditions as the court may deem appropriate. In felony cases except
28 for violations of K.S.A. 8-1567 and amendments thereto, the court may
29 include confinement in a county jail not to exceed ~~30~~ 120 days, which
30 need not be served consecutively, as a condition of probation or com-
31 munity corrections placement;

32 (4) assign the defendant to a community correctional services pro-
33 gram in presumptive nonprison cases or through a departure for substan-
34 tial and compelling reasons subject to such conditions as the court may
35 deem appropriate, including orders requiring full or partial restitution;

36 (5) assign the defendant to a conservation camp for a period not to
37 exceed six months as a condition of probation followed by a six-month
38 period of follow-up through adult intensive supervision by a community
39 correctional services program, if the offender successfully completes the
40 conservation camp program;

41 (6) assign the defendant to a house arrest program pursuant to K.S.A.
42 21-4603b and amendments thereto;

43 (7) order the defendant to attend and satisfactorily complete an al-

→ [On and after July 1, 2000,]

4
2-12

1 thereto, whichever is less.

2 (b) Dispositions which do not involve commitment to the custody of
3 the secretary of corrections shall not entail the loss by the defendant of
4 any civil rights. Placement of offenders in a conservation camp established
5 by the secretary of corrections pursuant to K.S.A. 75-52,127, and amend-
6 ments thereto, as a nonimprisonment disposition shall not entail the loss
7 by the defendant of any civil rights.

8 (c) This section shall not deprive the court of any authority conferred
9 by any other Kansas statute to decree a forfeiture of property, suspend
10 or cancel a license, remove a person from office, or impose any other civil
11 penalty as a result of conviction of crime.

12 (d) An application for or acceptance of probation or assignment to a
13 community correctional services program shall not constitute an acqui-
14 escence in the judgment for purpose of appeal, and any convicted person
15 may appeal from such conviction, as provided by law, without regard to
16 whether such person has applied for probation, suspended sentence or
17 assignment to a community correctional services program.

18 (e) The secretary of corrections is authorized to make direct place-
19 ment to the Labette correctional conservation camp or a conservation
20 camp established by the secretary pursuant to K.S.A. 75-52,127, and
21 amendments thereto, of an inmate sentenced to the secretary's custody
22 if the inmate: (1) Has been sentenced to the secretary for a probation
23 revocation, as a departure from the presumptive nonimprisonment grid
24 block of either sentencing grid, or for an offense which is classified in
25 grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug
26 crimes or in grid blocks 3-E, 3-F, 3-G, 3-H, 3-I, 4-E, or 4-F of the sen-
27 tencing guidelines grid for drug crimes; and (2) otherwise meets admis-
28 sion criteria of the camp. If the inmate successfully completes the six-
29 month conservation camp program, the secretary of corrections shall
30 report such completion to the sentencing court and the county or district
31 attorney. The inmate shall then be assigned by the court to six months of
32 follow-up supervision conducted by the appropriate community correc-
33 tions services program. The court may also order that supervision con-
34 tinue thereafter for the length of time authorized by K.S.A. 21-4611 and
35 amendments thereto.

36 (f) When it is provided by law that a person shall be sentenced pur-
37 suant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of
38 this section shall not apply.

39 Sec. 4. ~~√~~K.S.A. 1999 Supp. 21-4610 is hereby amended to read as
40 follows: 21-4610. (a) Except as required by subsection (d), nothing in this
41 section shall be construed to limit the authority of the court to impose or
42 modify any general or specific conditions of probation, suspension of sen-
43 tence or assignment to a community correctional services program, except

→ [On and after July 1, 2000,]

2-14

1 reimbursement tables as provided in K.S.A. 22-4522, and amendments
2 thereto, whichever is less.

3 Sec. 5. ~~√~~K.S.A. 22-3716 is hereby amended to read as follows: 22-
4 3716. (a) At any time during probation, assignment to a community cor-
5 rectional services program, suspension of sentence or pursuant to sub-
6 section (d) for defendants who committed a crime prior to July 1, 1993,
7 and at any time during which a defendant is serving a nonprison sanction
8 for a crime committed on or after July 1, 1993, or pursuant to subsection
9 (d), the court may issue a warrant for the arrest of a defendant for violation
10 of any of the conditions of release or assignment, a notice to appear to
11 answer to a charge of violation or a violation of the defendant's nonprison
12 sanction. The notice shall be personally served upon the defendant. The
13 warrant shall authorize all officers named in the warrant to return the
14 defendant to the custody of the court or to any certified detention facility
15 designated by the court. Any court services officer or community correc-
16 tional services officer may arrest the defendant without a warrant or may
17 deputize any other officer with power of arrest to do so by giving the
18 officer a written statement setting forth that the defendant has, in the
19 judgment of the court services officer or community correctional services
20 officer, violated the conditions of the defendant's release or a nonprison
21 sanction. The written statement delivered with the defendant by the ar-
22 resting officer to the official in charge of a county jail or other place of
23 detention shall be sufficient warrant for the detention of the defendant.
24 After making an arrest, the court services officer or community correc-
25 tional services officer shall present to the detaining authorities a similar
26 statement of the circumstances of violation. Provisions regarding release
27 on bail of persons charged with a crime shall be applicable to defendants
28 arrested under these provisions.

29 (b) Upon arrest and detention pursuant to subsection (a), the court
30 services officer or community correctional services officer shall immedi-
31 ately notify the court and shall submit in writing a report showing in what
32 manner the defendant has violated the conditions of release or assignment
33 or a nonprison sanction. Thereupon, or upon an arrest by warrant as
34 provided in this section, the court shall cause the defendant to be brought
35 before it without unnecessary delay for a hearing on the violation charged.
36 The hearing shall be in open court and the state shall have the burden of
37 establishing the violation. The defendant shall have the right to be rep-
38 resented by counsel and shall be informed by the judge that, if the de-
39 fendant is financially unable to obtain counsel, an attorney will be ap-
40 pointed to represent the defendant. The defendant shall have the right
41 to present the testimony of witnesses and other evidence on the defend-
42 ant's behalf. Relevant written statements made under oath may be ad-
43 mitted and considered by the court along with other evidence presented

→ [On and after July 1, 2000,]

1 son sanction.

2 (d) The court shall have 30 days following the date probation, assign-
3 ment to a community correctional service program, suspension of sen-
4 tence or a nonprison sanction was to end to issue a warrant for the arrest
5 or notice to appear for the defendant to answer a charge of a violation of
6 the conditions of probation, assignment to a community correctional serv-
7 ice program, suspension of sentence or a nonprison sanction.

8 Sec. 6. K.S.A. 1999 Supp. 22-3717 is hereby amended to read as
9 follows: 22-3717. (a) Except as otherwise provided by this section, K.S.A.
10 1993 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-
11 4638 and amendments thereto, an inmate, including an inmate sentenced
12 pursuant to K.S.A. 21-4618 and amendments thereto, shall be eligible for
13 parole after serving the entire minimum sentence imposed by the court,
14 less good time credits.

15 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638 and
16 amendments thereto, an inmate sentenced to imprisonment for the crime
17 of capital murder, or an inmate sentenced for the crime of murder in the
18 first degree based upon a finding of premeditated murder, committed on
19 or after July 1, 1994, shall be eligible for parole after serving 25 years of
20 confinement, without deduction of any good time credits.

21 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
22 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638,
23 and amendments thereto, an inmate sentenced to imprisonment for an
24 off-grid offense committed on or after July 1, 1993, but prior to July 1,
25 1999, shall be eligible for parole after serving 15 years of confinement,
26 without deduction of any good time credits and an inmate sentenced to
27 imprisonment for an off-grid offense committed on or after July 1, 1999,
28 shall be eligible for parole after serving 20 years of confinement without
29 deduction of any good time credits.

30 (3) Except as provided by K.S.A. 1993 Supp. 21-4628 prior to its
31 repeal, an inmate sentenced for a class A felony committed before July
32 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618 and
33 amendments thereto, shall be eligible for parole after serving 15 years of
34 confinement, without deduction of any good time credits.

35 (4) An inmate sentenced to imprisonment for a violation of subsec-
36 tion (a) of K.S.A. 21-3402 and amendments thereto committed on or after
37 July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after
38 serving 10 years of confinement without deduction of any good time
39 credits.

40 (c) Except as provided in subsection (e), if an inmate is sentenced to
41 imprisonment for more than one crime and the sentences run consecu-
42 tively, the inmate shall be eligible for parole after serving the total of:

43 (1) The aggregate minimum sentences, as determined pursuant to

1 These credits may be awarded by the secretary of corrections when an
 2 inmate has acted in a heroic or outstanding manner in coming to the
 3 assistance of another person in a life threatening situation, preventing
 4 injury or death to a person, preventing the destruction of property or
 5 taking actions which result in a financial savings to the state. ^Δ _∇

6 Sec. 7. ~~K.S.A. 21-4602 and 22-3716 and K.S.A. 1999 Supp. 21-4603,~~
 7 ~~21-4603d, 21-4610 and 22-3717~~ are hereby repealed.

8 Sec. 8. ~~This act shall take effect and be in force from and after its~~
 9 ~~publication in the statute book.~~ ^Δ

→ **[(s) The provisions of subsections (d)(1)(A), (B), (C) and (E) shall be applied retroactively.]**

→ **[(t) For offenders sentenced prior to the effective date of this section who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section for offenders convicted of severity level 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity level 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity level 5 and 6 crimes on the sentencing guidelines grid for nondrug crimes and severity level 3 crimes on the sentencing guidelines grid for drug crimes on or before January 1, 2001.]**

→ [is]

→ **[On and after July 1, 2000, K.S.A. 21-4602 and 22-3716 and K.S.A. 1999 Supp. 21-4603, 21-4603d and 21-4610 are hereby repealed.]**

→ **[Section 9. This act shall take effect and be in force from and after its publication in the Kansas register.]**

HOUSE BILL No. 2724

By Joint Committee on Corrections and Juvenile Justice Oversight

1-26

9 AN ACT concerning corrections; relating to placement of inmates;
10 amending K.S.A. 75-52,129 and repealing the existing section.
11

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

13 Section 1. K.S.A. 75-52,129 is hereby amended to read as follows:
14 75-52,129. (a) The secretary of corrections is hereby authorized to ne-
15 gotiate and enter into contracts with Kansas cities and counties for the
16 placement of inmates, who are classified as medium custody or any higher
17 custody or security classification, in facilities owned and operated by the
18 cities and counties. If the secretary of corrections proposes to place any
19 inmates classified as medium custody or any higher custody classification
20 for confinement in facilities other than correctional or other institutions
21 or facilities owned and operated by the department of corrections or any
22 other state agency, the secretary of corrections shall give first consider-
23 ation to entering into contracts with Kansas cities and counties under this
24 section before attempting to place any such inmate for confinement at
25 any location outside the state of Kansas if the facilities to be provided
26 under such contracts are substantially equal to facilities at locations out-
27 side the state of Kansas and if arrangements can be made in a timely
28 manner. *Except as provided in subsection (b)*, the provisions of this sec-
29 tion and any contract or preliminary letter of commitment entered into
30 pursuant to this section shall not apply to any minimum custody or com-
31 munity custody status inmates, or any other custody or security classifi-
32 cation lower than medium custody, or to any inmate who may be placed
33 in a work release or prerelease program, center or facility by the secretary
34 of corrections, who is eligible for parole or who is placed pursuant to the
35 interstate corrections compact. Contracts entered into pursuant to this
36 section shall not be subject to competitive bid requirements under K.S.A.
37 75-3739 and amendments thereto.

38 (b) *The secretary shall not enter into any contract as provided in*
39 *subsection (a) with any Kansas city or county for the placement of inmates*
40 *that does not provide that such city or county shall provide and maintain*
41 *appropriate and recognized standards of safety, health and security.*

42 Sec. 2. K.S.A. 75-52,129 is hereby repealed.
43

Attachment 5
2-18

1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

5/2/23
att 3

February 14, 2000

To: The Honorable Tim Emert, Chairman of the Senate Judiciary Committee
The Honorable John Vratil, Vice-Chairman of the Senate Judiciary Committee
The Honorable Greta Goodwin, Ranking Minority Member of the Senate Judiciary Committee

From: Kathleen Taylor Olsen, Kansas Bankers Association

Re: SB 421 and SB 447: Subpoena of business records not a party

Senators Emert, Vratil and Goodwin:

Both **SB 421** and **SB 447** amend K.S.A. 60-245a, which deals with issuing subpoenas for business records when that business is not a party to the lawsuit. I am writing to ask that when you decide to work these bills, you will consider our request to amend this statute to allow a business to recover the costs of researching the records being subpoenaed.

As you will recall, the statute provides that the "reasonable costs of copying the records" may be recovered. Arguably, that should include the costs of researching, however, banks have been denied those costs in many instances. Therefore, we respectfully request that the statute be amended to make it clear that these are recoverable costs.

Following Senator Vratil's advice when I testified on **SB 421**, I have re-drafted our proposed amendment to mirror the provisions found in the Kansas Open Records Act. Rather than using "reasonable researching costs", the amendment indicates that reasonable copying costs includes, "staff time required to make the information available". (Please see the attached amendment.)

Thank you for your attention to this matter and please let me know there are further questions or concerns.

Sn Jud
2-23
att. 3

KSA 60-245a

3-2

1 records described in the subpoena; and (3) the records were prepared by
2 the personnel or staff of the business, or persons acting under their con-
3 trol, in the regular course of the business at or about the time of the act,
4 condition or event recorded.

5 If the business has none of the records described in the subpoena, or
6 only part thereof, the affiant shall so state in the affidavit and shall send
7 only those records of which the affiant has custody. When more than one
8 person has knowledge of the facts required to be stated in the affidavit,
9 more than one affidavit may be made.

10 The copy of the records shall be separately enclosed in a sealed en-
11 velope or wrapper on which the title and number of the action, name and
12 address of the witness and the date of the subpoena are clearly inscribed.
13 If return of the copy is desired, the words "return requested" must be
14 inscribed clearly on the sealed envelope or wrapper. The sealed envelope
15 or wrapper shall be delivered to the clerk of the court.

16 The reasonable costs of copying the records may be demanded of the
17 party causing the subpoena to be issued. If the costs are demanded, the
18 records need not be produced until the costs of copying are advanced.

, including staff time required to make the information available,

19 (c) The subpoena shall be accompanied by an affidavit to be used by
20 the records custodian. The subpoena and affidavit shall be in substantially
21 the following form:

Subpoena of Business Records

23 State of Kansas

24 County of _____

25 (1) You are commanded to produce the records listed below before

27 _____
(Officer at Deposition)

(Judge of the District Court)

28 at _____

(Address)

30 in the City of _____, County of _____, on the _____

31 day of _____, 19____, at _____ o'clock _____ m., and to testify

32 on behalf of the _____ in an action now pending

33 between _____, plaintiff, and _____

34 defendant. Failure to comply with this subpoena may be deemed a contempt of the court.

35 (2) Records to be produced: _____

38 (3) You may make written objection to the production of any or all of the records listed
39 above by serving such written objection upon _____ at _____

(Attorney)

(Attorney's Address)

41 (within 14 days after service of this subpoena) (on or before _____, 19____).

42 If such objection is made, the records need not be produced except upon order of the court.

43 (4) Instead of appearing at the time and place listed above, it is sufficient compliance

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