Approved March 7, 2000
Date

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:12 a.m. on March 6, 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:
Albert Murray, Commissioner, Juvenile Justice Authority (JJA)
Mark Tallman, Assistant Executive Director for Advocacy
Paul Davis, Kansas Bar Association (KBA)
Kathy Porter, Office of Judicial Administration (OJA)

Others attending: see attached list

The minutes of the March 1st and March 2nd meetings were approved on a motion by Senator Bond, seconded by Senator Vratil. Carried.

SB 622-concerning juveniles; relating to placement of CINC; juvenile offenders, placement, credit for time spent, notice of release, offender registration; juvenile correctional staff

Commissioner Murray testified in support of **SB 622.** He presented a brief overview of each of the eleven sections in the bill discussing the amendments and technical changes, some of which are necessary for compliance with the Federal Juvenile Justice and Delinquency Act. (attachment 1) The Chair requested that Senators Oleen, Harrington, Petty, and Goodwin meet with the JJA to discuss concerns expressed during a lengthy discussion, particularly with regard to the fiscal impact of the bill. The JJA agreed to research and provide requested information at this meeting.

Conferee Tallman testified in support of provisions of **SB 622** that would "require that school districts receive notification when a juvenile offender is released to reside in that district." (attachment 2)

Written testimony in support of **SB 622** was submitted by Karen Arnold-Burger, Administrative Judge, City of Overland Park Municipal Court. (attachment 3)

HB 2600–exclusions to jury service

Conferee Davis testified in support of **HB 2600**, a bill which sets out certain criteria by which a person shall be excused from jury service. He briefly reviewed the history and purpose of the bill. (attachment 4)

Conferee Porter discussed the provisions of **HB 2600** stating that the bill "would excuse from jury duty persons who have served as jurors in the county within one year immediately preceding." She presented a brief overview of the Supreme Court Standards on jury service in the 31 judicial districts in Kansas. (attachment 5)

The Chair informed Committee he had appointed the following subcommittees: Senators Vratil (Chair), Donovan, and Petty to look at the possibility of merging **SB 559** with **HB 2879**; Senators Oleen (Chair), Harrington, and Gilstrap to discuss **SB 195, 333,** and **341** and report to Committee recommendations for addressing the DUI issue. He also explained that he is holding up **SB 579**, a bill regarding arson which passed out of Committee on March 2. He stated he had received a fiscal impact statement from the Kansas Sentencing Commission which needed to be addressed. He requested a representative from the Sentencing Commission submit a breakdown of the figures individually for clarification.

The meeting adjourned at 10:48. The next scheduled meeting is March 7, 2000.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 6, 2010

NAME	REPRESENTING
Mark Tellman	KACP
Kelly Kultala	City of Overland Park
Ellen Hamilton	~~Esplana~~ GFWC of Kansas
Anita Pfister	General Federation of Women's Clubs of Kansas
Rylan Martin	W. Damon
Albert Murray	JJA
Kelsey Pedigo	JJA
Ann Kellogg	KPASW
John Hottyclaw II	GFWC Citizenship Award & Tau Kappa Epsilon AΦ chapter.
Jenny Shoemaker	GFWC
Robert Thiebaud	GFWC
Taylor Lenon	GFWC
Barbara Doran	GFWC
Adrienne Zoll	GFWC
Adam Engels	GFWC Remember This Name!!
Bill Henry	KS Governmental Consulting
Marla Graves	GFWC
Helen Wells	GFWC
Norma McCoy	GFWC

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 6, 2000

NAME	REPRESENTING
Rosalie Shamburger	KDOT
Don Jordan	SRS
Mark Gleeson	OJA
Kathy Porter	OJA
Ida Stone	GFWC of Kansas
James R Bibon	GFWC Rolla, Ks
Gladys Shook	GFWC of Ks
Susan Zeckard	KCDAA
Jennifer Ash	Federico Consulting
Jeff Bottenberg	KSA / KPOA
Paul Davis	Kansas Bar Assn.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 6, 2000

NAME	REPRESENTING
Sarah Behan	GFWC

STATE OF KANSAS

Juvenile Justice Authority
Albert Murray, Commissioner

Jayhawk Walk
714 SW Jackson, Suite 300
Topeka, Kansas 66603
Telephone: (785) 296-4213 FAX: (785) 296-1412

BILL GRAVES
Governor

TESTIMONY BEFORE SENATE JUDICIARY
March 6, 2000

Thank you for the opportunity to testify before the Senate Judiciary committee today. The Juvenile Justice Authority supports Senate Bill 622. I'd like to give you a brief overview of its contents.

Section 1 amends the sex offender registration act to include "sentencing order" in addition to diversionary agreements and probation orders where the Court may order registration under the Kansas offender registration act, thereby expanding the potential use of the juvenile offender registration to orders other than probation and diversion. This could include juveniles sent to juvenile correctional facilities who are convicted of sexually violent offenses. It is good public policy to allow the Court discretion in ordering juvenile offenders sentenced to more secure settings, as well as those on probation, to register under this act.

Section 2 consists of amendments based upon the Federal Juvenile Justice and Delinquency Prevention Act. The proposal amends the valid court order (VCO) requirement under K.S.A. 38-1568 to require:

- a report written by SRS that reviews the behavior of the child and the circumstances under which the child was brought before the court and made subject to such order; determines the reasons for the child's behavior; and determines whether all disposition alternatives and nonsecure confinement have been exhausted or are clearly inappropriate;
- indicates that abused and neglected children cannot be placed in secure juvenile detention or secure care facilities for violating a valid court order; and
- prohibits placement of a child in an adult jail or lockup. Secure placement is limited to juvenile detention facilities or secure care facilities agreeing with the federal definition.

Relating to this issue, Section 7 gives JJA authority to review jail records so that jail removal data can be monitored for compliance with the JJDPA.

These amendments will bring Kansas into compliance with the Federal Juvenile Justice and Delinquency Prevention Act requiring deinstitution of status offenders, by allowing Kansas to use the valid court order (VCO) exception to this requirement. The rate of acceptable violations is 29.4 per 100,000 juvenile population. The rate for Kansas during 1998, the latest year tested, is 31.9. The amendment indicates that a report must be prepared and submitted to the court. The report should note whether less restrictive placements are available for the juvenile. If there are none, the Court may place in a secure facility. The proposed legislation addresses the issue of reducing Deinstitutionalization of Status Offenders violations to not more than 3.0 per 100,000 population by FY 2001.

SJud 3-6-00 att 1

Sections 3, 5 and 6 repeal the ability of the prosecutor to block releases of violent offenders after the implementation of the placement matrix and sets a standard 10-day (excluding weekends and holidays) notice to the Court. The reason for this proposal is that under the placement matrix the Court sets the sentence and should generally know when the offender will be released. Even if the offender earns good time while incarcerated at a juvenile correctional facility, the case must come before the court to determine whether the sentence will be reduced. Since the Court sets the sentence and the prosecutor has the opportunity to influence that decision before incarceration, there is no need for a procedure to block release as there might have been when the juvenile correctional facility was responsible for setting release terms. Even if the Commissioner asks the Court for an early release on an offender, the matter goes back to the Court, so the Court would be aware of the release date.

Section 4 amends the conditional release revocation procedure to delete language relating to extension of conditional release for crimes occurring on or after July 1, 1999, because under the placement matrix, the Court pronounces the conditional release term at the sentencing. A new conditional release term is pronounced if a juvenile offender is revoked from conditional release and sent back to a juvenile correctional facility. This section also deletes the term "discharged by the Commissioner," and adds language referring to the Court's authority to sentence, as the Commissioner no longer possesses the authority to completely discharge an offender from a sentence.

Section 10 allows credit for time served in a juvenile detention facility or adult jail. It also defines sentence begins date as the date of sentencing less any jail credit earned. The sentence begins date is used to establish the date of release from a juvenile correctional facility.

Section 11 adds hiring requirements for the juvenile corrections officer series to include security officers indicating that they be at least age 21 and free of felony conviction. This proposal would also allow the agency to set physical agility requirements for hiring at the juvenile correctional facilities. This would help the agency promote a more professional organizational culture and upgrade the required minimum qualifications of candidates for this series of officers. The agency requested including these specifications into the position descriptions during the reclassification action last year, but the agency was informed by the Division of Personnel Services that these qualifications cannot be included unless they are provided by statute.

Sections 8 and 9 are technical in nature. Section 8 amends the chronic III offender category in the placement matrix, to indicate that two prior severity level 4 "drug" felony adjudications are required for placement in a juvenile correctional facility. The word "drug" was included in all other subsections under the chronic III category of this statute, but was left out of this subsection. Section 9 is a minor wording change from "juvenile" to "child" to agree with the rest of the statute.

That concludes the summary of the bill. Again I thank the Committee for the opportunity to testify. I would be happy to answer your questions.

KANSAS ASSOCIATION OF SCHOOL BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

TO: Senate Committee on Judiciary
FROM: Mark Tallman, Assistant Executive Director for Advocacy
DATE: March 6, 2000

RE: Testimony on S.B. 622 – Juvenile Offenders

Members of the Committee:

Thank you for the opportunity to testify on behalf of the Kansas Association of School Boards. We appear today in support of the provisions of S.B. 622 that would require that school districts receive notification when a juvenile offender is released to reside in that district.

The committee is well aware of the growing concern over school safety, and has supported measures to ensure that school personnel are aware of potentially dangerous students or students who may require additional support. We believe this provision in S.B. 622 would facilitate this goal.

Thank you for your consideration.

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att 2

Sen Jud 3-6 att 3

WRITTEN TESTIMONY
OF
KANSAS ADVISORY GROUP MEMBER KAREN ARNOLD-BURGER
BEFORE THE SENATE JUDICIARY COMMITTEE CONCERNING SB 622

My name is Karen Arnold-Burger and I am a member, by appointment of the Governor, to the Kansas Advisory Group. The Kansas Advisory Group (KAG) is the citizen board that advises the Juvenile Justice Authority on issues regarding compliance with federal legislation and serves as the body that reviews and allocates federal grant money received from the federal Department of Justice, Office of Juvenile Justice and Delinquency Prevention to communities throughout Kansas. I chair the Compliance Committee of the KAG and it is in that capacity that I testify before you today.

As you may know, Kansas is a participant in the Juvenile Justice and Delinquency Prevention Act (JJDPA). The JJDPA was enacted by Congress in 1974 in order to reform the juvenile justice system and to create productive partnerships between state and federal governments regarding the development and implementation of effective, responsive, and innovative juvenile justice systems. Kansas receives approximately $1.3 million in JJDPA funds annually, through the Juvenile Justice Authority and distributed by the Kansas Advisory Group, a group appointed by the Governor, of which I am a member. These funds are used both to support statewide juvenile justice initiatives and system improvements and local juvenile justice programming such as juvenile diversion, teen courts, and school resource officers.

Since the decision by Kansas to take part in the JJDPA, it has been required to demonstrate compliance with five (5) core requirements of the JJDP Act. As in all participating states, the determined level of compliance with JJDPA core requirements directly affects eligibility for JJDP related funds and assistance. In the even of demonstrated non-compliance with any one of the JJDPA core requirements, 25% of JJDPA formula grant funds are withheld and the remaining 75% of funds are to be directed to achieving and maintaining compliance with the violated requirement.

One of the core requirements that has been causing difficulty in Kansas is the requirement of "Deinstitutionalization of Status Offenders." This requirement prohibits the secure detention of status offenders and children in need of care. In other words, runaways, truants, minors in possession of alcohol and other children classified under state law as "children in need of

Sen Jud 3-6-00 att 3

care" are never to be confined in secure confinement. There is one exception, however. They can be held in secure detention for the purpose of processing and release for up to 24 hours (excluding weekends and holidays) if, and only if, the juvenile is found to be in violation of a valid court order and there has been finding made by the Court, based on a written report from an appropriate agency other than law enforcement, that all less restrictive means have been examined and none exist.

Currently, some status offenders and CINCs (children in need of care) have been held up to 24 hours in secure detention due to violation of a valid court order, but because the state law does not require that the Court review the written report referred to above, Kansas must count these juveniles as violations of the core requirement. Because of our inability to use this exception, we are very close to being "out of compliance" with this core mandate. By changing the state law in the way outlined in SB 622, we will be able to maintain our compliance with this core federal requirement. Pending legislative changes, the Kansas Supreme Court, the Department of Social and Rehabilitation Services and the Attorney General have worked with the Juvenile Justice Authority and the KAG to revise their procedures to make sure a report is, in fact, being reviewed. The director of each agency has sent out directives to their respective field offices stressing the importance of compliance with this requirement. So this legislative change would neither be a surprise, nor a burden to these agencies.

This change also makes good policy sense. One of the assumptions underlying the core requirement is that juveniles who are not juvenile offenders are harmed by being lumped into secure detention with juvenile offenders. By treating CINCs and status offenders the same as offenders, studies in this area show that the system is simply compounding the abuse or trauma that these children have already suffered. By requiring that the Court take every precaution, including a review of a professionally prepared evaluation showing that there is no other viable alternative to detention, before housing non-offenders in secure detention, the best treatment of our children is safeguarded.

On behalf of the Kansas Advisory Group, I would urge you to act favorably and quickly on this legislation so that communities throughout Kansas do not risk losing in excess of a million dollars in federal funding that is currently be used for numerous worthwhile juvenile reform efforts.

Karen Arnold-Burger, Administrative Judge
City of Overland Park Municipal Court

KANSAS BAR ASSOCIATION

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LEGISLATIVE TESTIMONY

March 6, 2000

TO: Chairman Tim Emert and Members of the Senate Judiciary Committee

FROM: Paul Davis, Legislative Counsel

RE: House Bill 2600

Chairman Emert and Members of the Committee:

My name is Paul Davis and I am appearing today on behalf of the Kansas Bar Association to support the passage of House Bill 2600. This legislation is a product of the Special Committee on Judiciary that met during the interim. K.S.A. 1999 Supp. 43-158 sets out certain criteria by which a person shall be excused from jury service. Currently, persons unable to understand the English language, persons who have been adjudicated as incompetent and persons who have been convicted of or pleaded guilty to a felony ***shall*** be excused from jury service. House Bill 2600 purposes to add "persons who have served as jurors in the county within one year immediately preceding" to the list of persons who have a mandatory exclusion from jury service.

Under current law, the court ***may*** excuse persons who have served as jurors in the county within one year immediately preceding, but it is not mandatory. Most judicial districts have a policy stating that persons who have been called for jury service in a state court within that county during the past year are automatically exempted from jury service. However, there are several judicial districts that do not have this policy. These judicial districts provide the impetus for this legislation.

In these districts, there are frequent occurrences where a person is called for jury service several times within a one year period. There have even been instances where a lawyer has had the same person be part of the

jury pool in multiple cases. We don't believe the interests of justice are served by having such persons put in this situation. A person who has been a juror in a previous case that an attorney has litigated may have developed certain biases for or against that attorney. In these circumstances, an attorney could simply strike the person from the jury pool but this only makes the jury pool smaller. As most of you know, it is often difficult to find enough qualified persons in a jury pool to serve on the jury. An equal consideration is the burden placed on a person who is called for jury service more than one time in a year.

I do want to emphasize one consequence of passing this legislation. There are federal courts where jury trials are conducted in three Kansas counties (Sedgwick, Shawnee and Wyandotte). Under the current policies of the judicial districts that cover Shawnee and Wyandotte counties, a person who has served as a juror in federal court within the past year and has been called for jury service in state court does not have a mandatory exclusion from jury service. This bill would create a mandatory exclusion for such a person in this circumstance. That may be the intended outcome of this legislation but I wanted to bring this issue to the committee's attention. The judicial district that covers Sedgwick County does not provide for a mandatory exclusion for persons who have served as jurors within the last year.

I should also point out that the bill adds a person who has plead nolo contendere to a felony within the last ten years to the list of persons that receive a mandatory exclusion from jury service. The Kansas Bar Association also supports this change in the law.

The Kansas Bar Association believes this legislation is good public policy because it will both relieve the burden placed upon persons who are called for jury service more than one time in a year and will aid the administration of justice in our court system. For these reasons, we respectfully request your favorable recommendation of House Bill 2600. I would be happy to stand for question.

Sen Jud 3-6 att 5

State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612-1507
(785) 296-2256

March 6, 2000

Testimony on HB 2600 to Senate Judiciary Committee

Kathy Porter
Office of Judicial Administration

Thank you for the opportunity to appear on HB 2600, which would excuse from jury duty persons who have served as jurors in the county within one year immediately preceding.

The Office of Judicial Administration surveyed the 31 judicial districts and found only one district in which excusing a juror for one year after service is not the practice. That district requires jurors to be available for a period of three months, during which time the jurors must call in every other week to see if they need to report to the courthouse. A juror may serve on one or more jury panels during that three-month period. After serving as a juror, that person is excused from jury service for a period of one year from the date the person was last required to call in.

Throughout the state, the overwhelming practice is the "one day/one trial" system, in which jurors are called to serve for one day, or the duration of one trial. Following that service, jurors are excused from additional service for a period of one year, or, in a few cases, for two years. Many districts have a three-month availability status, in which jurors must call in to see if they are needed. Jurors do not need to come to the courthouse unless they are needed, and they are excused after service.

I have attached a copy of the Supreme Court standards on jury service. As you review the standards, you will note that they are designed to be "juror friendly." Although jury service is an important duty of citizenship, it is acknowledged that jury service can indeed present a disruption in one's life. The standards are designed to minimize any disruption or inconvenience that might result.

A recent study conducted by Dr. Steven Cann of Washburn University and Professor Michael Kaye of Washburn University Law School surveyed a total of 1,747 Kansans called for jury service. The survey concluded that "[o]ver 80 percent of the respondents in this study gave the overall jury duty a positive evaluation, 91 percent said that court employees were courteous and helpful, and there was generally strong support for courthouse facilities." The authors noted:

> "National surveys find between 50 and 60 percent of the citizens report satisfactory contact with government agencies. Citizen satisfaction with the Kansas jury system is well above the national average."

Thank you for the opportunity to appear on this bill, and I would be glad to stand for any questions that you might have.

KP:mr

Sen Jud
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att 5

STANDARD 5: TERM OF JURY SERVICE

The period of time that persons' lives are disrupted by jury service should be the shortest period consistent with the needs of justice, financial considerations, and proper notice in order that the sacrifices and personal inconveniences of jury service might be minimized.

(a) At least 20 days' notice of the initial date of jury service should be given whenever possible.

(b) A procedure that utilizes first notification of jury service and summoning for a specific day is recommended.

(c) Except in areas with few jury trials, persons should not be required to maintain a status of availability for jury service for longer than one week.

(d) In areas with few jury trials, availability status should be the shortest time possible, but a period of no longer than one month is recommended. However, availability status of no longer than three months is acceptable. In either event, settings of the appearance date should be limited to three times during that period.

(e) Telephone call-in systems should be utilized to inform jurors whether they are needed and, if so, when they should report to the courthouse.

(f) Attendance of one day or the completion of one trial, whichever is longer, is recommended. However, attendance during one week or the completion of one trial, whichever is longer, is acceptable.