

Approved 2/5/01
Date

MINUTES OF THE HOUSE K-12 EDUCATION COMMITTEE.

The meeting was called to order by Chairperson Ralph Tanner at 9:00 a.m. on January 22, 2001 in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Ben Barrett, Legislative Research
Carolyn Rampey, Legislative Research
Avis Swartzman, Revisor of Statutes
Ann Deitcher, Committee Secretary

Conferees appearing before the committee: Representative Shari Weber
Lt. Daryl Reece, Kansas Peace Officers' Assoc.
Judge Allen R. Slater, Johnson County District Court
John C. Fritz, Asst. Johnson County District Attorney
Chris Biggs, Kansas County & District Attorneys Assoc.

The Chair explained that the reason for the change of venue was to accommodate the Joint Senate/House Committees on Utilities in their need for larger quarters for the day.

HB 2023 - An act concerning juveniles; relating to school attendance.

Representative Shari Weber appeared before the Committee in support of **HB 2023**. (Attachment 1).

Representative Weber was asked why the Joint Oversight Committee on Corrections and Juvenile Justice, on which she served, didn't pick a large group for their pilot study. She said they looked at every district across the state but dealt only with those who responded to their inquiries.

Appearing as a proponent for **HB 2023** was Daryl Reece of the Johnson County Sheriff's Department who represented the Kansas Peace Officers' and Kansas Sheriff's Associations. (Attachment 2).

John C. Fritz, Johnson County Assistant District Attorney and Judge Allen R. Slater, of the Johnson County District Court, testified in favor of **HB 2023**. (Attachment 3).

Appearing as an opponent of **HB 2023** was Chris Biggs of the Kansas County and District Attorneys Association. (Attachment 4).

The Chairman announced that the length of time that was allowed for the Committee to meet in 519-S was up and there would be a continuance on the hearing of **HB 2023** to the next Committee meeting.

The meeting was adjourned at 10:30. The next meeting is scheduled for Wednesday, January 24, 2001.



Majority Leader
House of Representatives

TESTIMONY ON HB 2023
EDUCATION COMMITTEE
January 22, 2001

Thank you, Mister Chairman and members of the committee, for the opportunity to appear before you today in support of House Bill 2023. My interest in the truancy issue comes from my involvement with the juvenile justice system through work with the Joint Committee on Corrections and Juvenile Justice Oversight.

I became interested in this issue after the Committee heard testimony that truancy is one of, if not the premier, indicator of later juvenile criminal behavior. Education is one of the most important indicators of success and competency. Failure in late elementary school and/or failure to complete the education process is a serious problem and one of the risk factors for juveniles. Educators tell us that they are already aware of family difficulties and the effect on student performance of their students as early as first, second and third grades. Data gathered by juvenile justice community planning teams reveals that the juveniles in detention centers function at an average of two or more grade levels below their peer group. Information also reveals that juveniles who drop out of school have a prior history of truancy. Principals and superintendents note that it is not uncommon for juveniles with truancy problems to be significantly behind their peers academically, resulting in eventual drop-out of school.

Truancy has been identified as a major problem for youth and often leads to other juvenile offenses. Truancy is defined as follows: 5 days of unexcused absences from school per semester, or 3 consecutive days of unexcused absences, or 7 days of unexcused absences per school year. Unexcused is defined by school personnel. Since the Kansas State Board

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of Education does not have a written policy on truancy, only a few parameters, written in the statutes, exist for local school districts. Every district's personnel, law enforcement and county/district attorney's office may treat the issue of truancy differently.

After several years of monitoring programs for the reduction and prevention of juvenile crime delinquency (including testimony from across the State), the Joint Committee on Corrections and Juvenile Justice Oversight heard testimony, during the interim, concerning differences among school districts in the definition of the phrase "significant part of a school day" as it relates to unexcused absences. These differences result in variations across the State as to when a child is deemed truant. The Committee introduced HB2023 to establish a statewide standard of "significant part" as 15 percent of the school day.

The Committee also heard testimony relating to current law requiring truants 14 years of age or older to be classified as children in need of care (CINC). Courts have few options under this classification in the sentencing of truants and the CINC designation is not always appropriate. The bill would also provide for the classification of a truant who is 14 years of age or older, as a juvenile offender in order to expand sentencing options.

I feel that state policy and school district practices relating to truancy need legislative clarification. Additionally, I support the transmission of truancy notifications to the juvenile intake and assessment programs in each judicial district. The intake and assessment process is the front door to the juvenile justice system. This locally controlled and operated entity will provide a positive means to address truancy problems early per connecting truants with, family services available via intake and assessment.

Thank you for your time and favorable consideration of House Bill 2023.


Representative Shari Weber

**Testimony Excerpts Regarding Truants 14 Years of Age or Older
Being Classified as Juvenile Offenders**

“One Committee member suggested charging older children as juvenile offenders [for truancy] rather than classifying him or her as a child in need of care. The panelists noted that they could see both sides of that argument, but did not necessarily favor that approach. An alternative suggested was to create a juvenile offender ‘look alike’ status to give judges more flexibility in sentencing.”

- Minutes, Joint Committee on Corrections and Juvenile Justice Oversight, July 10, 2000 (Discussion also during September 11 meeting)

“The following are recommendations for the Joint Committee on Corrections and Juvenile Justice Oversight:

- Permit truancy violations for youth 14 years of age or older to be classified under the Juvenile Offenders code. Current law permits truants to only be classified as Child in Need of Care (CINC). The CINC classification limits judges in their options for sentencing truant youth. . . .By permitting truancy to fall under the Juvenile Offender’s Code, the youth could then be placed on a probation plan which would include a variety of options such as: fines, house arrest, placement in a detention center, etc.”

- Testimony submitted by United Community Services of Johnson County,
November 14, 2000

Testimony Excerpts Regarding "Significant Part of a School Day"

"The law allows the phrase 'significant part of a day' to be defined by the local school board therefore the definition of truancy has no true standard. It is important to have a clear, concise definition of truancy stated in the law. . . . When a student is allowed to miss a portion of the school day the student learns to navigate the system and miss portions of the school day thereby receiving no consequence for missing school those hours they chose to miss."

- Testimony of representative of Topeka Public Schools, June 20, 2000

"Also mentioned by the conferees was the lack of a standard definition of 'significant part of the day' of required school attendance. Required attendance is determined individually by each school district. It was noted that a statewide definition would be helpful, but that any definition must allow for flexibility for the districts in setting class schedules. One conferee suggested that the definition involve a percentage approach rather than class periods."

- Minutes, Joint Committee on Corrections and Juvenile Justice Oversight, July 10, 2000

"The following are recommendations for the Joint Committee on Corrections and Juvenile Justice Oversight:


- Define a 'significant' part of the school day for an unexcused absence, as missing more than 10 percent of the student's total school day.By making this a uniform standard, it will simplify decision making for school staff, clarify the issue for school boards, and will provide consistency statewide to families in Kansas."

- Testimony submitted by United Community Services of Johnson County, November 14, 2000

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MEMORANDUM

To: Representative Shari Weber
From: Jill Ann Wolters, Assistant Revisor 
Date: March 1, 2000
Subject: Juvenile intake and assessment, K.S.A. 75-7023

Juvenile intake and assessment (I&A) was established in statute as part of the comprehensive Juvenile Justice Reform Act of 1996. Prior to July 1, 1996, Douglas, Lyon and Shawnee County had locally funded programs that provided I&A. On and after July 1, 1996, the supreme court provided for the establishment of I&A in every judicial district. On and after July 1, 1997, the commissioner of juvenile justice is responsible for I&A. (The commissioner may contract with the office of judicial administration to administer I&A, but currently is not doing so.)

Upon a juvenile being taken into custody, an I&A worker shall complete the I&A process, and collect the following information:

- (1) A standardized risk assessment tool, such as the problem oriented screening instrument for teens;
- (2) criminal history, including indications of criminal gang involvement;
- (3) abuse history;
- (4) substance abuse history;
- (5) history of prior community services used or treatments provided;
- (6) educational history;
- (7) medical history; and
- (8) family history.

The commissioner may allow local I&A programs to create a risk assessment tool, as long as such tool meets the mandatory reporting requirements established by the commissioner.

After completion of the I&A process for the child, the I&A worker may:

- (1) Release the child to the custody of the child's parent, other legal guardian or another appropriate adult if the intake and assessment worker believes that it would be in the best interest of the child and it would not be harmful to the child to do so.

(2) Conditionally release the child to the child's parent, other legal guardian or another appropriate adult if the intake and assessment worker believes that if the conditions are met, it would be in the child's best interest. The conditions may include, but not be limited to:

- (A) Participation of the child in counseling;
- (B) participation of members of the child's family in counseling;
- (C) participation by the child, members of the child's family and other relevant persons in mediation;
- (D) provision of inpatient treatment for the child;
- (E) referral of the child and the child's family to the secretary of social and rehabilitation services for services and the agreement of the child and family to accept and participate in the services offered;
- (F) referral of the child and the child's family to available community resources or services and the agreement of the child and family to accept and participate in the services offered;
- (G) requiring the child and members of the child's family to enter into a behavioral contract which may provide for regular school attendance among other requirements; or
- (H) any special conditions necessary to protect the child from future abuse or neglect.

(3) Deliver the child to a shelter facility or a licensed attendant care center along with the law enforcement officer's written application.

(4) Refer the child to the county or district attorney for appropriate proceedings to be filed or refer the child and family to the secretary of social and rehabilitation services for investigations in regard to the allegations.

(5) Make recommendations to the county or district attorney concerning immediate intervention programs which may be beneficial to the juvenile.

Parents, guardians and juveniles may access the I&A programs on a voluntary basis. The parent or guardian shall be responsible for the costs of any such program utilized.

The 15th, 17th and 23rd judicial districts (Northwest Kansas) share an I&A center in Hays. All other judicial districts have an I&A center. If the I&A center is not open 24/7, contract staff is on call for after hours. In rural areas, staff sometimes travel to the sheriff's department or police department to conduct assessments.

BACKGROUND

The 1997 Legislature created the Joint Committee on Corrections and Juvenile Justice Oversight which is composed of seven members each of the House of Representatives and the Senate. The duties of the Committee include:

- Monitor the inmate population and review the programs, activities, and plans of the Department of Corrections;
- Monitor the establishment and review the programs, activities, and plans of the Juvenile Justice Authority;
- Review the adult correctional programs, activities, and facilities of counties, cities, other local governmental entities, and private entities; and
- Review juvenile offender programs, activities, and facilities of counties, cities, school districts, other local governmental entities, and private entities including programs for the reduction and prevention of juvenile crime and delinquency.

KSA Supp. 46-2801 extends the Committee to December 2003.

COMMITTEE ACTIVITIES

The Committee met for 14 days during the 2000 Interim at various locations throughout the state. Meetings were held in Overland Park, Kansas City, Winfield, Wichita, Garden City, Dodge City, Beloit, Salina, Junction City, Manhattan, and Topeka. During the 2000 interim, the Committee focused on three main topics: community corrections and parole, court issues related to both adult and juvenile

offenders, and truancy. Roundtable discussions on these topics involving members of the local community were conducted at each meeting.

The Committee also received testimony on the following topics: the Johnson County Youth Court program, gender issues relating to adult and juvenile offenders, the Criminal Justice Information System, juvenile intake and assessment, the Legislative Post Audit compliance and control audit of the Juvenile Justice Authority, interstate compacts for post-release supervision and parole, mental health resources for adult and juvenile offenders, the Governor's Substance Abuse Prevention Council, and various issues presented by the Kansas Sentencing Commission.

The Committee toured several facilities during the 2000 Interim including: Johnson County work release program, Kansas Bureau of Investigation laboratory in Kansas City, InnerChange Freedom Initiative at Winfield Correctional Facility, Wichita Drug Court, Beloit Juvenile Correctional Facility, Flint Hills Job Corps program, and Riley County Law Enforcement Center.

CONCLUSIONS AND RECOMMENDATIONS

Bills and Resolutions

The Committee recommends the introduction of legislation in the 2001 Legislative Session. The following describes that legislation.

Bills:

Truancy Bill

- The Committee heard testimony during the interim concerning differences among school districts in the definition of the phrase "significant part of

a school day" as it relates to unexcused absences. These differences result in variations across the state as to when a child is deemed truant. The Committee will introduce a bill to establish a statewide standard of "significant part" as 15 percent of the school day.

The Committee also heard testimony relating to current law requiring truants 14 years of age or older to be classified as children in need of care (CINC). Courts have few options under this classification in the sentencing of truants and the CINC designation is not always appropriate. The bill would also provide for the classification of a truant 14 years of age or older as a juvenile offender to expand sentencing options.

- Testimony was presented to the Committee regarding juvenile intake and assessment services being provided to children in need of care as well as juvenile offenders. The Juvenile Justice Authority is not required by statute to provide these services for children in need of care. Testimony received by the Committee indicated custody difficulties experienced by local intake and assessment workers when working on a CINC case. The Committee strongly encourages the Juvenile Justice Authority and the Department of Social and Rehabilitation Services to continue discussions in this area until there is clarification on the matter of custody and the problems are resolved. In addition, the Committee will introduce legislation to reduce from 72 to 48 hours the time required to hold a hearing for a judge to make a determination to issue an order for temporary custody after a child has been taken into protective custody.

- The Committee received testimony from several community groups during the interim concerning the uncertainty in funding programs through one-year grants. The Committee acknowledges the difficulties in continuing successful programs, including staff recruitment and retention, when programs are funded through these grants and will introduce legislation requiring the Juvenile Justice Authority to make grants for juvenile justice programs on a two-year cycle beginning in FY 2003.

Resolution:

The Committee's resolution encourages the Legislature to make no sentencing adjustments to Kansas Sentencing Guidelines or the Juvenile Offender placement matrix for one year. A sentencing adjustment moratorium will allow a reasoned evaluation of prior legislative adjustments made every year to the Sentencing Guidelines since its implementation in 1993. The Legislative Coordinating Council directed the Committee to review the impact of legislative changes to the Sentencing Guidelines for the last five years. The Committee received testimony from the Kansas Sentencing Commission regarding changes and the Committee's conclusion is expressed in the resolution. The Committee notes the Kansas Sentencing Commission will recommend to the 2001 Legislature a number of minor adjustments to the Sentencing Guidelines. Recommendations of the Kansas Sentencing Commission are not included in the Committee's moratorium recommendation. The Committee notes the beneficial results of the Sentencing Commission analysis of the impact of potential legislative changes, and the recommended resolution is the result of the Legislature's experience being able

hancements for additional full-time equivalent positions to provide adequate staff during the overnight shifts. The total enhancement request for the three facilities is \$980,681 and 40 full-time equivalent positions.

Truancy. One main focus for the Committee during the 2000 Interim was the issue of truancy as it is a key indicator of the potential for juvenile offender behavior. The topic was the subject of roundtable discussions at each meeting throughout the state. The common thread among successful programs, such as those in Wichita and Dodge City, appears to be close ties between agencies within the community. The Joint Committee strongly encourages community agencies to collaborate with one another in dealing with the issue of truancy. In addition, the Committee suggests that the Juvenile Justice Authority give strong consideration to successful truancy programs when distributing its best practices reward funds.

Recognizing that health problems such as head lice can break the pattern of attendance and initiate truant behavior in elementary age children, the Committee recommends that the issue of head lice be examined by the House Health and Human Services and the Senate Public

Health and Welfare committees. Specifically, the Committee suggests review of the possibility of county nurses serving as resources in eradicating homes of lice and of local school districts determining at what point students who have had lice should return to school.

Juvenile Detention Facility Fund. The Committee heard testimony from the public as well as the Legislative Division of Post Audit on the subject of expenditures and transfers from the Juvenile Detention Facility Fund. While the Committee agrees with the findings of the Post Audit Compliance and Control Audit completed in October 2000, it notes that the Legislature should be more cautious in the future when diverting funds to other areas. In addition, the Committee encourages the local detention facilities to find other sources of funding to lessen dependence on the Juvenile Detention Facilities Fund.

Beloit Juvenile Correctional Facility Graphic Arts Program. The Committee recognizes the graphic arts program at Beloit Juvenile Correctional Facility for both the quality of work produced and the development of skills which can be utilized by the juvenile offenders upon release.

imony of Lieutenant Daryl Reece
Johnson County Sheriff's Office
Concerning House Bill 2023
January 22, 2001

Mr. Chairman and members of the committee, my name is Daryl Reece and I appear today on behalf of the Kansas Peace Officers' Association ("KPOA"), and the Kansas Sheriffs' Association ("KSA"), which collectively represent approximately 5,000 members statewide. We appreciate this opportunity to express our strong support of House Bill 2023.

I have been a law enforcement officer for the past fifteen years and have been working with youth in a professional capacity during my entire career. I currently supervise the juvenile officers in my department and work with various public and private agencies daily which deal with juvenile matters. Under current law, truants can only be classified as a Child in Need of Care (CINC). If a child comes before a judge on a truancy case, the judge's options for sentencing the child are severely limited. The judge may order the child back to school and have Court Services monitor the child's attendance. In addition, the judge may order individual counseling or the removal of the child from the home. According to court personnel with whom I have discussed this matter, there are very few sanction options available for responding to the child who refuses to comply with the aforementioned orders.

As Eileen Garry, Office of Juvenile Justice and Delinquency Prevention (OJJDP), and others have pointed out, truancy is a stepping stone to criminal activity. According to a report compiled by the Los Angeles County Office of Education, the most powerful predictor of delinquent behavior is chronic absenteeism. The linkage between truancy and youth crime has been well established by numerous studies and by the results of various school absenteeism reduction programs. For example, police actions targeting truancy in such cities as Van Nuys, California, and St. Paul, Minnesota, have resulted in a reduction of criminal activity.

House Bill 2023 addresses this issue by allowing a truant youth fourteen (14) years of age or older to be classified under the Juvenile Offender Code. Thus the youth could be placed on a probation plan which could require counseling, curfews, fines, driver's license restrictions, house arrest or, in extreme circumstances, removal from the home.

In addition, House Bill 2023 would define a "significant part of a school day" as being absent from 15% or more classes scheduled for the child on a particular school day. The current law allows each board of education to determine what shall constitute a significant part of a school day. To illustrate the problem of interpreting this phrase (i.e., "significant part of a school day"), please allow me to describe the situation in Johnson County. In our county there are six (6) school districts, each with its own interpretation. Furthermore, each school within these respective districts varies in their definition of "significant part of a school day," ranging from one (1) hour to an entire school day. By replacing the current statutory phrasing, (i.e., "significant part of a school day") with more specific language, the need for clarification and consistency would be satisfied. Although I have used Johnson County as an example, I am confident that the school districts in the communities you represent face the same problem.

Mr. Chairman and members of the committee, based on my experience as a law enforcement officer who has devoted most of his career to working with youth, I am convinced that in the State of Kansas we must implement strong measures for the control of truancy. To do otherwise is to fail to address the problems of our youth in a meaningful way.

Thank you for your time and for the opportunity to appear before you today.

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Attachment # 2

TESTIMONY IN SUPPORT OF HB2023

January 22, 2001

**Judge Allen R. Slater, Johnson County District Court Judge
John C. Fritz, Assistant Johnson County District Attorney**

Importance of Truancy Issues:

Truancy issues are very important. Studies show that truancy is a potential pre-cursor to future criminal behavior. It is also a well-known fact that when communities reduce truancy rates, they also make a significant impact in juvenile crime rates. Keeping kids in school also has a positive effect on quality of life issues for a community.

History of Truancy Issues:

Unfortunately, truancy cases are frustrating cases to prosecute. If you were to research why these cases are so frustrating, you would get a variety of answers. Prosecutors will tell you that schools aren't as prompt in reporting as they could be, and the delay hurts the chances for success. School personnel will tell you that record keeping and reporting does little good. And judges will tell you that quite simply, they have no options when a truancy case comes to court.

HB2023 is an attempt to allow the court system to help these kids. HB2023 proposes two changes to the way truancy cases are prosecuted. First, in Section 3, on page 8, lines 19 through 21, there is a specific definition for "significant portion of the school day." Second, in Section 2, on page 5, lines 24 through 27, truancy cases for children ages 14 and over can be prosecuted as a juvenile offender case.

This bill was suggested to the legislature by the "Truancy Initiative," a working group led by United Community Services of Johnson County, Kansas. This group of school officials, service providers and court personnel meets regularly to try and address global truancy issues. This bill came from two of the Truancy Initiative's biggest concerns: a lack of consistency in reporting, and the almost non-existent options available to judges on truancy cases.

Support for "Significant Portion of the School Day" Language:

We support this proposed change to K.S.A. 72-1113 because it gives schools specific guidance in making truancy related decisions. Currently, the law gives discretion to the schools to determine whether an absence is "unexcused," and whether the absence is for a "significant portion of the school day." The disparity in the interpretation of "significant" leads to inconsistency in reporting. In the past, some schools used looked at two or more in a day. However, school schedules vary widely, with some schools going to a college type "block scheduling" system of three or four classes in a day, while others have as many as eight periods in a day. Allowing the schools to compute 15% or more of the days classes as having been missed without an excuse allows them to be more precise in deciding which days to count as truant for purposes of their reporting functions under state law.

Support for Moving 14 and Older Truants to the Juvenile Offender Definition:

When considering the arguments for and against this specific section of HB2023, we ask that you consider the following question: What is best for these kids? In other words, should we continue to have these cases prosecuted in the current Child in Need of Care (CINC) system, one that is ill equipped to deal with the realities of today's truants? When making this important decision, we'd like for you to consider the following points:

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1. The current CINC code does not have any real options for the court to consider. The CINC code is a helping code, designed to protect children that need help and assistance. Older truants are typically children that refuse to go to school. In most cases, this destructive behavior comes from their own poor decisions. While help should be made available to the entire family, the court's orders should primarily focus on the child's needs. The court should be free to order varying levels of supervision, and to make specific orders to get at the cause of the truancy problem (for example, substance abuse issues). The sentencing options under the juvenile offender code (K.S.A. 38-1663) would give the court more options than those in the CINC code (K.S.A. 38-1553).

2. Moving these cases to the Juvenile Justice Code give the child more protection. An alternative to this change would be to specifically write more options for truancy dispositions within the CINC code. We see that this is a viable option. However, one reason that this alternative may not be the best option is to look at the rights of the child. When more consequences are being considered for a juvenile, then the juvenile's rights must be jealously guarded. An attorney appointed to a juvenile in a CINC case is a *guardian ad litem* (GAL), who is charged with advocating for the child's best interests. In a Juvenile Justice action, the attorney representing the child is an advocate, and is thus given more freedom to safeguard the child's rights.

3. "Status Offenses" are already present within the Kansas Justice System. A point to consider is that such a change would make truancy a "status offense" (meaning, an offense applicable only to juveniles by virtue of their age). Having a specific act designated as a "status offense" does not in and of itself make a statute unconstitutional. Currently, we have status offenses present in our Kansas statutes for a variety of acts, such as: 1- possession of cereal malt beverage; 2- possession of alcohol; 3- possession of tobacco products; 4- aggravated juvenile delinquency; 5- juvenile possession of a firearm; and 6- various city curfew ordinances, among many others. As a rule, status offense statutes are constitutional, and accepted by courts across the country. In addition, federal and state statutes already in place would require local jurisdictions to keep these and all other status offenses out of detention. This new statutory change would not result in more kids being placed in detention.

4. The fiscal impact of this change is relatively low. Arguments stating that this change would bring a large number of new kids into the system misses two very important points. First, most studies that you look at show that for kids 14 and older, the common characteristics between offenders and truants are almost identical. Second, the argument misses the point that truancy cases are inherently prevention-oriented; as such, the court system is working with the child and family to prevent further misbehavior, and to guide the child to reach his or her potential in life. Money spent on prevention issues can save money down the road.

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Testimony In Opposition of HB 2023

1/22/2001

Chris Biggs

KCDAA Legislative Chair

Geary County Attorney

Chairman Tanner and members of the House Educations Committee,

HB 2023 includes an apparent effort to deal with truancy of older juveniles more strictly by making such violation a juvenile offense. There are many problems with this concept:

1. Failure to attend school is a status offense and juveniles cannot be incarcerated for this under federal law. This statute would create mass confusion among law enforcement and will inevitably result in the "arrest" of truant kids with the result of loss of federal money under title V.
2. There is no proposed statutory language to define the "offense" of truancy which will be judged by constitutional "vagueness" standards.
3. Removing older juveniles from the CINC code means that SRS services such as family preservation will not be available and it will not be possible to show reasonable efforts under federal law before secure care or out of home placement is ordered..
4. Less can be done for these truant kids as juvenile offenders than as CINCS .

What will JJA do with them?

5. There is no provision for how to "score" the offense on criminal history.

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Attachment # 4