

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 24, 2001 in Room 313-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: Diane Gjerstad, Wichita Public Schools
Col. Robert Hester, Dir. of Jr ROTC for the Wichita Schools
Mark Tallman, Kansas Assoc. of School Boards,
Asst. Executive Dir. for Advocacy

It was moved by Representative Lloyd and seconded by Representative Phelps to approve the minutes for January 16, 17 and 18. The motion carried on a voice vote.

The Chair announced the formation of a sub-committee on home schooling. Members will be Rep. Mason, Chair and Representatives Lloyd, Huebert, Reardon and Peterson. Their first meeting would be held in Room 235-N that afternoon at 2:30.

Diane Gjerstad introduced Colonel Robert Hester who spoke briefly to the Committee to thank them for the opportunity to appear before them and to speak of the advantages provided to those members of the Junior ROTC Program. (Attachment 1).

The following members of the program gave a brief account to the Committee of their experiences as members of the Junior ROTC: Sarah Fischer of Wichita North High School; Matt Butterworth of Curtis Middle School; Janelle Underwood of Jardine-Edison Academy; Fae Lambdin, West High School and Stephanie Crusinberry of Pleasant Valley Middle School.

The Chair announced the hearing of **HB 2096** and **HB 2094** to be on Monday, January 29.

HB 2023 - (continued)

Appearing before the Committee in support of **HB 2023** was Mark Tallman. (Attachment 2).

Ken Hales offered testimony as a proponent of **HB 2023**. (Attachment 3). He said, however that while their staff "respected and embraced the intention of this bill, in its current form, the bill presents a very important change in public policy that could have significant unintended consequences."

A request was made by the Chair that Mr. Hales present a memorandum requesting such an amendment.

Mark Gleeson, while listed as an opponent of **HB 2023**, explained that his opposition wasn't to the intent of the bill but rather to some of the aspects of the bill that he felt should be amended. (Attachment 4).

A sub-committee was assembled to take a careful look at the legal issues in **HB 2023**. Named to this sub-committee were Representatives Horst, Crow and DiVita.

The Chair apologized to those waiting to testify on **HB 2019**, explaining that since it was near the time for the House to convene, any more business would have to be postponed until a later date.

The meeting was adjourned at 10:55. The next meeting is scheduled for Monday, January 29, 2001.

WICHITA JROTC LEADERSHIP CORPS

- § Initiated in Wichita in 1994. Currently, eight high schools with JROTC and five middle schools have Leadership programs. Opening enrollment this year-1600 cadets; 60% male and 40% female.
- § Mission. "To motivate young people to be better citizens." Accomplished through detailed curriculum including the following areas: Leadership traits, principles, and techniques; improved oral and written communication skills; U S history and government; civics; character development; teamwork; service learning; and life skills including first aid and health, physical training, and map reading and land navigation.
- § Credit. JROTC is a four-year program earning elective credit for graduation; Leadership is a three-year program.
- § Academics. Both programs fully support graduation and higher education opportunities. Scholarship opportunities for ROTC and service academies are enhanced through JROTC.
- § Instructors. JROTC instructors are fully accredited, retired officers and noncommissioned officers. All officers and majority of noncommissioned officers have college degrees. Leadership instructors are fully accredited and have military experience. Instructors are teachers, trainers and mentors who are committed to helping cadets.
- § Uniforms/Rank/Awards. Uniforms worn once a week. Rank is earned based on overall performance in the programs and school. Awards earned for leadership ability, academics, attendance, physical training, team drill, sports, and other school related activities.
- § Extracurricular Activities. Cadets are encouraged to participate in a multitude of activities to include service learning/community service; adventure training; drill and physical fitness competitions; academic tournaments; social events such as military balls, awards ceremonies and lock-ins; district Leadership School; and JROTC summer camp.
- § Leadership Program. District developed and funded initiative to provide JROTC related activities to middle school students. Overall outstanding success with the program copied by many other districts across the United States.
- § Success. District programs have accomplished all objectives as witnessed by success of cadets and supported by parents, educators and community leaders.
- § Challenges. Finding qualified teachers and establishing allocations at the schools.

JROTC

House Education Committee

Date: 1/24/01

Attachment # 1



TO: House Committee on Education
FROM: Mark Tallman, Assistant Executive Director for Advocacy
DATE: January 22, 2001

RE: Testimony on H.B. 2023

Summary of Bill:

HB 2023 (Jt. Comm. Corr./Juv. Just. Oversight)- Truant students 13 and under would be handled through the Child In Need of Care Code and students 14 and older would be handled under the Juvenile Offender Code. This bill also defines "significant part of a school day" for truancy reporting purposes as an absence from 15% or more of student's scheduled classes on particular school day.

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to offer comments on H.B. 2023. We appreciate the interest, demonstrated by this bill, in attempting to address the issue of truancy. We know that when students are not in school, they are generally not learning. Our Association's Delegate Assembly has adopted the following position on the enforcement of compulsory attendance:

"KASB supports legislation that would enhance the enforcement of compulsory attendance of Kansas school children, and seeks cooperative efforts among schools, law enforcement agencies, the Juvenile Justice Authority and the Department of Social and Rehabilitation Services."

Based on this position and on the experience of KASB staff who work with schools on these issues, we offer the following comments:

We do not object to this bill's proposed changes regarding the Child In Need of Care and Juvenile Offender codes. Our experience, however, has been that enforcing compulsory attendance through adversarial court proceedings can result in long, drawn-out court battles. It is rarely a speedy way to get children back in school.

The major concern of our members is that in most cases, truancy enforcement has a very low priority, whether the agency is SRS, the county attorney or the JJA. This is not a criticism as much as a statement of reality. These agencies simply have so many other pressing demands that truancy is rarely at the top of their list. We also want to recognize that some communities are having more success in enforcing attendance laws.

We must find ways to deal with the basic causes of truancy. Changing the agencies responsible for enforcement may not change the reason students fail to attend school.

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Our members appear to support keeping the definition of a “significant part of the school day” a local policy matter. Unless our members adopt a different position, we support allowing local control on such issues. Under current law, local educators and school board members make what they believe is the best decision for their community.

We reviewed 105 school district policies in this area from districts that have recently used KASB’s policy services. (That represents approximately one-third of Kansas school districts.) We found that six did not appear to address this issue, which they should have done under state law. About 40% addressed the issue through their student handbooks, which are also part of district policy but may not be contained in the district policy manual.

Of the policies that did address this issue, there was a wide variation in approaches to the definition of “significant part of the school day.” Some used hours or minutes, some used class periods, some used a percentage or specified a fraction of the day or class period. A number of districts used different definitions for elementary and secondary students.

No district we surveyed used the standard proposed in this bill: 15% or more classes scheduled that day. However, probably the most common definition was one hour or one period, which is similar to the time proposed in this bill. A few defined truancy as missing a shorter period than one hour. More common was allowing students to miss up to two hours. A handful of districts allow students to miss up to half a day or 50% before being declared truant.

The question is whether the state should substitute a single standard in place of local decisions. Our members have not expressed a belief that such a change would improve enforcement of compulsory attendance.

Thank you for your consideration. I would be happy to answer any questions.

HOUSE COMMITTEE ON K-12 EDUCATION

January 24, 2001

Testimony on HB2023

By

The Juvenile Justice Authority of Kansas

Members of the Juvenile Justice Authority (JJA) staff and I sat in on many of the meetings held throughout the summer by the Joint Oversight Committee on Corrections and Juvenile Justice. At these meetings we heard community stakeholders discuss their concerns about truancy and their desire for more tools to use to keep kids in school. From what we heard and our review of HB2023, we understand the intent of the bill is to provide the court an array of interventions to use with truants similar to the sentencing alternatives the court may impose on juvenile offenders. We respect and embrace the intention of HB2023. However, although the language is brief, in its current form the bill presents a very important change in public policy that could have significant unintended consequences.

In general, as currently drafted, the bill would turn a status offense into a criminal type act. Additionally, it would bring several hundred and possibly over a thousand new offenders into the juvenile justice system and possibly JJA custody.

One consequence of the bill in its current form would be the loss of federal funds from the Office of Juvenile Justice Delinquency Prevention (OJJDP). The Juvenile Justice Authority, through the Kansas Advisory Group, receives approximately \$1 million annually from OJJDP and uses this money to provide grants to communities. Secure confinement of a youth who has not committed an offense that would be a crime if committed by an adult violates federal law. If any youth were to be adjudicated as juvenile offenders for truancy and held in secure confinement, even temporarily, the state would be penalized. The state would lose approximately \$235,000 of its OJJDP eligibility and the remaining \$700,000 would have to be used for correcting the confinement violations. If truants or other status offenders are treated like juvenile offenders they would inevitably be subject to secure detention and possibly even juvenile correctional facility confinement. This would be a violation of the federal mandate to de-institutionalize status offenders.

Another consequence, one that I cannot quantify, is the adverse impact on the individual truant youth because of his or her exposure to and involvement in the juvenile justice system. There is a significant body of literature that indicates confinement with juvenile offenders by non-offenders can contribute to a non-offender's criminal identification and their tendency towards future criminal behavior. The goal of all juvenile justice practitioners is to keep kids out of the "system". That is unless the juvenile offender needs to be held accountable for a crime or for public safety reasons. The current language of the bill allows a significant number of youth to be processed in the juvenile justice system and also placed in JJA custody who have not committed a criminal type act nor are they a risk to public safety.

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Lastly, there is the possibility of a significant increase in the number of juveniles entering the juvenile justice system and being placed in the custody of the Juvenile Justice Authority. We have been unable to determine from any source the number of students or potential students who exhibit truant behavior. We can surmise that the number is large. Even if a small percentage of the possible truant population were placed in JJA custody it would have an immense fiscal and operational impact.

For example, estimates provided last year by SRS to a work group assigned to consider the impact of SB633 proposed, identified that 19% of the youth in foster care as children in need of care (CINC) had truant behavior. Using the work group's figure as one possible scenario, this bill's result could be additional 1,300 juveniles in JJA custody. This is an increase of approximately 75% in the non-juvenile correctional facility population in JJA custody. Even half that number would be an immense burden and a significant fiscal impact on the agency. An additional 1,300 youth in JJA custody would have a widespread impact across the entire system from the JJA central office to its local community partners. Based on this 75% scenario, we project the fiscal impact to be in the \$20 million range. This involves the additional resources needed in the central office from monitoring the local grants to processing additional vendor payments. It also involves funds necessary for additional case managers in the community and the resources necessary to purchase services for youth in our custody. The \$20 million would also include our best guess on the extra workload and fiscal impact on juvenile community corrections and juvenile intake and assessment services. I should note the vast majority of that \$20 million would be consumed by the case management function for truants actually placed in JJA custody.

We support and respect the intent to give local courts more options and more authority to intervene with truants. After discussing our concerns with members of the Joint Committee on Corrections and Juvenile Justice Oversight we respectfully propose a friendly amendment (see attachment). We believe this amendment still gives the local courts more tools to work with truants, yet this language, we believe controls for the adverse unintended consequences.

The attachment identifies six items. The first three are basically technical in nature. The fourth item puts in statute the authority for the prosecutor to file a juvenile offender petition for truancy in addition to the existing power to file a child in need of care petition. It relates what is being proposed in the juvenile offender code to the applicable statutory sections relating to truancy. The fifth item is necessary to make sure we do not create confusion between the existing options for the court in regular juvenile offender cases from the options proposed in truancy cases.

The sixth item is the most meaningful. It sets forth the sentencing options the court can use with a youth adjudicated a juvenile offender on the bases of truancy. Basically, all the options the juvenile code provides the court for juvenile offenders are included in this list except secure confinement and placement in JJA custody. In brief, the court could put a truant on probation or on house arrest. The court could place the youth in the custody of a parent or some other suitable adult. The court could commit the truant to a

community-based program such as a day report center or a special program in the community for truants. Also, the amendment provides the court a set of interventions that can be imposed on both the youth and his or her family. These include family counseling, mediation, parenting classes, or special education programs. Additionally, these provisions allow the court to suspend the juvenile's driver's license or put special conditions on their use of an automobile by a youth adjudicated as a truant.

We believe our amendment is consistent with the intent of the Oversight Committee. It provide new tools for the court to use with truants yet it controls for violations of the Federal Juvenile Justice Delinquency Prevention Act and it preserves the most punitive and costly sanctions in the juvenile justice system for serious, chronic and violent juvenile offenders.

Thank you for your attention and for listening to our comments on this matter.

JJA PROPOSED AMENDMENTS TO HB 2023
1/19/2001

Revision to current section:

Page 5, Section 2. Line 25, K. S. A. 38-1602 (b) ... *dates of the ~~unexcused~~ absences, as defined by K. S. A. 72-1113*, is not attending school...

This utilizes the wording in K. S. A. 72-1113.

Revision to current section:

Page 8, Section 3, Line 20, K. S. A. 72-1113 (c)(1) ... *"significant part of a school day" means an absence from 15% or more of classes time scheduled for the child on that particular school day.*

Class time denotes the hours the student should be attending in a day, whereas classes scheduled may not mean much when some schools use a "block schedule".

Revision to current section:

Page 8, Section 3, Line 23, K. S. A. 72-1113 (c)(2), strike, "and for determination of what shall constitute a "significant part of a school day" for the purpose of this section.

Significant part of a school day has been defined in section (c)(1) above.

Revision to current section:

Page 9, Section 3, Line 32, K. S. A. 72-1113(f)...If, during the investigation, the county or district attorney determines that the reported child is not attending school as required by law, the county or district attorney shall prepare and file a petition alleging that the child is *either* a child in need of care, pursuant to K. S. A. 38-1502, or a juvenile offender, pursuant to K. S. A. 38-1602.

The prosecutor files the case as CINC or JO depending on the age of the child.

New section:

K.S.A. 38-1663. Sentencing alternatives. (a) When a respondent has been adjudicated to be a juvenile offender *for an offense other than K.S.A. 72-1113*, the judge may select from the following alternatives.

This exempts a violation of K.S.A. 72-1113 from the normal range of sentencing alternatives available to the court for juvenile offenders.

New section:

K. S. A. 38-1663, new subsection (b), renumbering remaining paragraphs. *When a respondent has been adjudicated a juvenile offender for a violation of K. S. A. 72-1113 the court may make orders it deems reasonable and necessary regarding parents and the child to include (a)(1), (a)(2), (a)(6) and (a)(9) of this section. Such orders shall not include (a)(3), (a)(4), (a)(5), or (a)(8) of this section, nor shall the juvenile be removed from the juvenile's residence solely on the basis of inexcusable absences under this section.*

This exception allows courts some options for dealing with truancy throughout the family, but does not allow sentencing options that would result in violation of the Juvenile Justice and Delinquency Prevention Act, cost the State millions of dollars, or allow for truants to receive sanctions reserved for serious, chronic or violent juvenile offenders.

Testimony to the House Education Committee
Re: HB 2023 Concerning Juvenile; relating to school attendance

Presented by Mark Gleeson
Family and Children Program Coordinator
Office of Judicial Administration
January 22, 2001

Mr. Chairman, thank you for the opportunity to testify on HB 2023. Although listed as an opponent, please let me begin by clarifying our position on HB 2023. We do not oppose what appears to be the intent of the bill to provide more options to the court and communities dealing with adolescents who meet the statutory definition of truant. This is an important issue and every tool added to the court's tool box will be appreciated. With this understanding, however, there are some aspects of this bill which should be amended.

The first point of concern is the modification of the juvenile offender code to include a status offense as a definition of a juvenile offender. The juvenile offender code, and the full range of sanctions available under the juvenile offender code, should be reserved for juveniles who commit offenses which, if the juvenile were an adult, would constitute a misdemeanor or a felony offense. Introducing noncriminal status offenses into the juvenile offender code steps over a boundary across which other status offenses such as running away from home may soon follow.

Another point of concern is the tenuous status of the State of Kansas being in and out of compliance with the federal Juvenile Justice and Delinquency Prevention Act. The JJDP Act requires status offenders to be placed in residential facilities which are not secure. In 1999, Kansas was found to be out of compliance with the JJDP Act by virtue of having too many status offenders, principally adolescents who run away from a court ordered placement, in detention facilities and secure care facilities. During our last compliance monitoring period, Kansas was found to be back in compliance but only by the slimmest margin. Transferring adolescents into the juvenile offender code, and opening secure sanctions as a full dispositional option, will almost certainly result in Kansas quickly being out of compliance with the JJDP Act.

Why does this matter? Kansas currently receives approximately \$1.5 million of federal JJDP Act funds. These funds are distributed to local communities by the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention. Many of these federal dollars are matched with local funds to pay for initiatives such as truancy diversion programs, juvenile mentoring programs, school resource officers and others. If Kansas becomes out of compliance, which is a virtual certainty if this bill passes, Kansas will be forced to use all of the federal OJJDP money received by the state to bring us back into compliance with the federal Act.

How can we avoid this and still provide judges and the communities with the tools they

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are seeking to provide students the incentives a few of them need to stay in school? A group representing judges, SRS area office personnel, JJA and school districts met last Friday, as they have the third Friday of each month for the past several years. This group, known as the Court/SRS/Education/JJA Liaison Committee, or simply the Liaison Committee, discussed this bill at length and would propose the following:

1. Remove language in this bill which would create a new classification of juvenile truant.
2. Amend the CINC code to bifurcate the truancy definition as is presented in this bill (i.e. under 14 years of age and 14 years of age and older).
3. Identify those sanctions from the juvenile offender code and the CINC code that you wish to make available to the truant who is 14 years of age and older.
4. Amend the valid court order provisions of the CINC code to apply to this new definition of truant. This valid court order, under federally authorized conditions, currently allows the court to place children who runaway from a court ordered placement into a secure placement. According to the consultant who conducts the compliance monitoring for the state in these matters, the same can be done for any status offense if authorized by state statute.

Judge Graber, District Judge for the 30th Judicial District and a member of the Liaison Committee, has agreed to draft language which we believe will address the interests of this committee, allow additional sanctions for older truants, and keep Kansas from falling out of compliance with the JJDP Act.

Finally, I believe it is important for communities to take full advantage of prevention programs before placing truants in secure placements. Modeled after successful programs in Kansas and adding a few twists of their own, Three School districts in Wyandotte County have drastically reduced truancy without detaining students and, most importantly, without imposing out of school suspensions on students who do not go to school. The Wyandotte County Truancy Diversion Program has reduced referrals to the Court from 55% to 2% in one year. In a study of 127 students who participated in the diversion program, the number of un-excused absences dropped from 1,791 to 317. That is an additional 1,474 more days of school attendance for the students and a reduction of 82% in un-excused absences. Funding for these programs will pay dividends for schools, communities, courts, and most importantly, for the students who are once again attending class. Funding for this successful initiative came from the Office of Juvenile Justice and Delinquency Prevention.

Once again, thank you for the opportunity to testify before this committee. I stand for questions.