

M I N U T E S

SPECIAL COMMITTEE ON JUVENILE MATTERS

November 19, 1975
Room 517 - State House

Members Present

Representative David Heinemann, Chairman
Senator Arden Booth, Vice-Chairman
Senator Jan Meyers
Senator Robert Madden
Senator Jim Parrish
Representative Michael Glover
Representative Glee Jones
Representative Fred Lorentz
Representative Ardena Matlack
Representative Joe Norvell
Representative Jim Lowther
Representative Neal Whitaker

Staff Present

Myrta Anderson, Legislative Research Department
Walt Smiley, Legislative Research Department
Mary Torrence, Revisor of Statutes' Office

Conferees and Others Present

James H. Hays, Division of Budget, Topeka
William R. Preston, Methodist Youthville, Newton
Virginia Feeley, MCH-Department of Health, Topeka
Mark Dillon, Student, Emporia
Becky Lowther Dillon, Student, Emporia
Shannon Manzanares, SRS, Topeka
Ann Heberger, League of Women Voters of Kansas, Overland Park
Diane Simpson, Kansas Council on Crime and Delinquency, Salina
G. Joseph Pierron, Assistant District Attorney, Olathe
Fred Holloman, House of Representatives Staff, Topeka
Patrick Furley, Wyandotte County Juvenile Court, Kansas City
Galan Kirchmer, Lyon County Youth Center, Emporia

Chairman Heinemann called the meeting to order at 9:30 a.m. He stated the agenda would include final consideration of the proposed draft legislation of the Juvenile Code and the Final Report. He distributed copies of a letter sent to the Committee from the League of Women Voters pertaining to the action taken in the meeting of the Special Committee on November 7, 1975. (See Attachment No. I.) The Chairman also distributed copies of "Comments on Working Draft No. Two for the Special Committee on Juvenile Matters" which was presented to the Chairman by G. Joseph Pierron, Asst. District Attorney for Johnson County on behalf of the Juvenile Judges Committee. (See Attachment II.)

Staff distributed copies of the revised draft (3rd draft) of the Juvenile Code and summarized the major changes in the Code. (See Attachment No. III - 5 RS 1644.) The changes are as follows:

- p. 1 - 38-802(a), lines 9-12, definition of "children's aid society" includes all children under the Code.
- p. 1 - 38-802(2), lines 19-20, delete escalation of offense from miscreant to delinquent.
- p. 2 - 38-802(3), lines 11-21, transferred to wayward section.
- p. 2 - 38-802(4), lines 30-35,
- p. 2 - 38-802(5), lines 1-4, transferred from wayward section.
- p. 3 - 38-802(e), line 8, delete "liable to be arrested and prosecuted" and substitute "subject to arrest and prosecution". Changes part of definition of traffic offender from "child under sixteen. . ." to "child under fourteen. . .". Offenses such as vehicular homicide, DWI, habitual violators, reckless driving and fleeing a law enforcement officer would remain under the Code.
- p. 3 - 38-802(g), lines 29-35, and
- p. 4 - 38-802(g), lines 1-12, delete dependent and neglected definition from Code.
- p. 4 - 38-802(b), lines 22-24, definition of deprived, reflects language of child abuse act.
- p. 4 - 38-802(j)(k), lines 31-35, adds definition of "custodian" and "commit". Deleted "place" from the Code.
- p. 5 - 38-802(m), adds definition of "law enforcement officer".
- p. 5 - 38-802(1), change definition of "custody" to reflect the "legal right" to have physical custody.
- p. 5-38-805, lines 11-35, and
- p. 6 - 38-805, lines 1-3, reflects committee position that records are confidential except for provisions which appear in subsections (1)-(4), pages 4 and 5.

- p. 6 - Sec. 3. Indicates jurisdiction of court over deprived child continues until discharged by the court or until child reaches age of 21. Reinsert lines 24-27 "if such child has not been adopted or placed for the period of his or her minority with a children's aid society or with a public or private institution used as a home or place of detention or correction."
- p. 6 - Sec. 3(c), lines 31-32, change language to read "which may cause such child to be declared delinquent, miscreant, wayward, or traffic offender or truant."
- p. 7 - Sec. 5, 38-809, lines 22, add "injunctions".
- p. 10 - Sec. 8 -, 38-812, line 2, delete "adjudicatory".
- p. 10 - Sec. 9, 38-814, lines 23-26. New language, provides that probation officers cannot serve as law enforcement officers.
- p. 11 - New Sec. 10, lines 24-25, add "miscreant, wayward, truant or deprived". Combine (a) and (b) in lines 27 and 28.
- p. 12 - 38-815, line 22, substitute law enforcement officer for peace officer.
- p. 12 - 38-815(b), discussion followed on "aggravated juvenile delinquency," as defined in K.S.A. 21-3611, which is a class E felony offense. The juvenile court does not have jurisdiction to try persons charged with aggravated juvenile delinquency. Note: there should be a change in language in 21-3611 deleting "state industrial school for girls" and substituting "Youth Center at Topeka and Youth Center at Beloit."
- p. 14 - K.S.A. 38-815(e), line 5, motion made and seconded to delete "Saturday." Motion passed.
- p. 14 - K.S.A. 38-815, line 6, delete "peace officer" substitute "law enforcement officer."
- p. 14 - K.S.A. 38-815(b), new portion of the Code provides that law enforcement records and files are to be confidential with the exception of 1-5 listed on p. 14.
- p. 14 - K.S.A. 38-815(b), line 29, add "parties to the proceeding and their counsel".
- p. 16 - New Sec. 13, line 17, motion made and seconded to strike "involving moral turpitude." Motion carried.
- p. 16 - New Sec. 13, line 20, motion made and seconded to strike "such person has been rehabilitated." Motion lost.
- p. 17 - New Sec. 13, line 2, change peace officer to law enforcement officer.

- p. 19 - Sec. 14(f), line 35, delete "Saturday."
- p. 24 - Sec. 17, line 24 delete "Saturday."
- p. 24 - Sec. 17, line 33, delete "legal". Discussion followed on need to clarify terminology in code: custody, legal custody, guardian ad litem, legal custodian. Staff to check with SRS on this matter.
- p. 25 - Sec. 17, K.S.A. 38-819(c), line 2-13. Clarify that "the juvenile court may order a child who is alleged to be delinquent or miscreant to be placed in detention in the county jail or police station in quarters separate from adult prisoners" - providing there are no alternate facilities.
- p. 28 - K.S.A. 38-824(a)(6) Delete lines 5-9. Delete lines 30-34. Discussion followed on need to include language to permit the Secretary of SRS to commit to institutions under MH and R Services and generally to allow the Secretary broader discretion in placement. Staff to clarify this, using language similar to that on p. 31, lines 13-28.
- p. 30 - Sec. 20, K.S.A. 38-824(e), delete lines 6-10, lines 16-20. Discussion followed on action taken at last meeting giving Juvenile Judges the authority to place wayward children at the Youth Center at Topeka and Beloit. At the last meeting the situation of a wayward child who had run away several times was described. There seemed to be no way to deal with the child under the present Code. As a result the discretionary powers of the juvenile judges were expanded. Several members expressed concern that action had been taken to fit only one extreme case. Other members suggested the possibility of using a new term to describe the extreme wayward child. Another area discussed was the fact that this action would increase the court workload and create more problems than the case merits.
- p. 30 - Sec. 20, K.S.A. 38-824. The suggestion was made to clarify that none of the actions listed on pages 28 and 30 should be taken unless there are no alternate community or private programs available and that the child is unamenable to juvenile court treatment.

The meeting adjourned for lunch.

The Chairman called the meeting to order at 1:30 p.m. and the Committee continued consideration of the proposed draft legislation.

- p. 27-30 - The suggestion was made that staff consider the language of the Juvenile Judges statement submitted in August, page 5 which states that "no child who has been adjudged a wayward child shall be committed unless it is found by substantial evidence and reflected in the court's journal entry of commitment that there is no alternate

community or private program or placement which offers a reasonable chance of achieving the goals of this code with said child." This action would be a formal finding in a separate hearing which could be appealed to protect against injustice.

The staff was directed to incorporate these suggestions, combining sections of K.S.A. 38-824 and 38-826 when possible. It was suggested that it be clarified by inserting a clause dealing with waywards sent to Beloit and Topeka that lack of facilities or program not be used as a basis for directing such action but that the child was not amenable to treatment. It was also suggested that Kansas continue to look very hard at the possibility of applying for federal funds under the federal juvenile delinquency act. The possibility of directing communications to the GCCA, the Governor, etc., concerning federal funding was discussed.

- p. 35 - Sec. 22, K.S.A. 38-826, lines 1-5, change wording to reflect that a delinquent or miscreant child may be placed in jail pending final disposition, providing there are no alternate facilities available.
- p. 35 - K.S.A. 1975 Supp. 38-827(a)(b). As amended these sections provide that if a child committed to certain persons or agencies listed in K.S.A. 38-824 or 38-826 is found to be eligible for assistance under K.S.A. 39-709, payment for the expense of his care shall be made from the state social welfare fund if no other provision is made for the payment of such expense. In the case that the child is not eligible for public assistance, payment for his care is to be made from the county general fund. As amended, K.S.A. 1975 Supp. 38-827(c) provides that if a child is committed to certain persons or agencies listed in K.S.A. 38-824 or 38-826, as amended, the expenses of the care and custody of the child shall not be paid out of the county general fund. Such expenses shall be paid out of the state social welfare fund subject to payment or reimbursement as required in K.S.A. 1975 Supp. 38-828, even though the child does not meet the eligibility standards of K.S.A. 39-709. Discussion followed on payment of court costs and attorney's fees.
- p. 37 - line 7, insert here a clause providing that notwithstanding any section of the Code to the contrary SRS shall not be liable for court costs and attorney's fees. Delete provision for payment on pages 18, 22, and 24.
- p. 35 and 27. With respect to disposition of juveniles to be held for 30 days provide that a detention hearing must be held to decide if juvenile is to be detained.
- p. 37 - Sec. 25, line 10. Add traffic offender.

- p. 32 - lines 1-15, relating to notification of change of placement by juvenile court, staff to clarify language, notice of change to parents but not location of child to protect child if placement is foster home placement, etc.
- p. 39 - New Sec. 28, lines 4-10, delete. Include bracketed material, lines 11-19.
- p. 6 - K.S.A. 38-806, lines 17-22. Add a new section to clarify what final discharge means under jurisdiction section since court has authority to find juvenile needs mental health treatment. Discussion followed on various problems related to definition of final discharges. Make it clear that commitment to mental health institution is intermediate step, once discharged from mental health institution, juvenile should be returned to juvenile court jurisdiction if under 21.
- p. 39 - New Sec. 29. Motion made and seconded to accept new language in New Sec. 29. Motion carried. Delete "and juvenile detention facilities", line 28, already covered under other statutes.

Discussion followed on standing Committee report amending the bill to implement the Interstate Compact on the Placement of Children. Motion made and seconded to accept Committee report. Motion adopted. (See Attachment IV.)

The motion was made and seconded that the final report reflect the policy decision of the Committee that the problem of status offenders should receive further study by future committees concerned with juvenile matters. Although the committee made the decision not to take status offenders out of the Code, the Committee recognized the need for continuing study of the problem, particularly the need to conform with federal guidelines not to put status offenders in jail. Motion carried.

Discussion followed on "Comments on Working Draft No. Two for the Special Committee on Juvenile Matters" (see Attachment No. II). Mr. Pierron presented the suggested changes and Committee and staff responded. K.S.A. 38-808, suggested change accepted. K.S.A. 38-810, suggested change accepted. K.S.A. 38-811 this change has already been implemented. K.S.A. 38-812 refer this to the Judiciary Committee during the legislative session. K.S.A. 38-815 and 38-817 consider these suggested changes at a later date. K.S.A. 38-824, consider this suggested change at a later date. K.S.A. 38-826, consider this suggested change at a later date.

The motion was made and seconded to approve the proposed draft legislation on the Juvenile Code (see Attachment III, 5 RS 1644) and to recommend to the Legislative Coordinating Council that the legislation be assigned to the House Judiciary Committee and recommended for favorable action. Motion carried. This action

was recommended since the Chairman of the Special Committee on Juvenile Matters is on the House Judiciary Committee, as are three additional members, while only one member of the Committee serves on the Senate Judiciary Committee.

The motion was made and seconded to accept the proposed draft legislation relating to traffic offenders remaining under the Code and to incorporate this into the Code. (See Attachment No. V.) Motion carried.

The motion was made and seconded to approve the minutes of the November 7 meeting of the Committee. Motion adopted.

The final report was then discussed. (See Attachment VI.) Typographical corrections on page 4 were noted. An additional paragraph to the summary and recommendations section was added indicating the need for continued study in the field of Juvenile Matters. On page three, second paragraph, line 5, sentence changed to state that testimony indicated there are persons serving as probation officers, as well as commissioned sheriffs or deputy sheriffs. Motion was made and seconded to accept the final report as amended. Motion adopted.

The Chairman thanked the members of the Special Committee on Juvenile Matters for their concern and cooperation during the interim study. Meeting adjourned.

Prepared by Myrta Anderson

Approved by Committee on:

December 15, 1975

Date

Attachment I
11-19

LEAGUE OF WOMEN VOTERS OF KANSAS



Affiliated with the
League of Women Voters of the United States
3127 Huntoon, Topeka, Kansas 66604
November 14, 1975

Representative David J. Heinemann, Chairman
Interim Committee on Juvenile Matters
417 North 8th
Garden City, Kansas 67846

Dear Representative Heinemann:

The League of Women Voters of Kansas wishes to express our gratitude for allowing us to have input into your committee's decision-making process throughout the summer. We feel, however, that your meeting on November 7th seemed to undo all of the good which you have worked so hard to attain. In our opinion, the committee has changed the philosophy of the Juvenile Code from what is best for the child, to what fits best in our existing non-system of so-called juvenile justice.

We have no quarrel with the reasoning that the juvenile judges should have original jurisdiction to place children in mental hospitals especially for evaluation. Our concern is giving unlimited discretion to the judges for placement of all children who come before the court for any reason.

A better guardian ad litem system, which we support, may protect children from abuses, but we know, as you do, that the pay is poor in most counties. Whether true or not, the feeling of many lay people is that justice is equal for all, if one can pay for it.

By giving the judges this kind of power, we feel that it is an easy out. Neither the state nor the local community will have to address itself to alternative measures other than to institutionalize a child. Money will continue to flow into the institutions, and there will never be a reason to try something that works better.

You and the committee have heard every argument on both sides of the issue in regard to status offenders, and to restate our argument for keeping children who have committed no crime out of the juvenile correction system as much as possible and status offenders out of our state institutions, is unnecessary. We would rather restate what SRS has reported to you:

1. The juvenile judges from counties with youth population exceeding 5,000 indicated that about half of the youth sent to state institutions could have been served in the community, if adequate community-based programs had been available.
2. Institutional administrators indicated that about one-fourth of the youth that were sent to their institutions would have been eligible for community-based programs, if available.
3. A study of institutionalized youth at Osawatomie Youth Center by the Legislative Post Audit Department in 1974, showed group homes compare favorably to institutionalization. (It is much cheaper, too.)

4. Sometimes status offenders at GIS number as high as 45% of the population.

A scientific paper entitled The Average Offender, written by Ellen A. Godfrey, staff psychologist at KRDC a few years ago, describes the average adult male felon in our state prisons. There is no data on females unfortunately. The information was derived from an analysis of a group test battery administered to 178 males selected at random. The average offender was twenty-six years old. 37% had lived in Kansas all of their lives. 27% had lived in the state for over two years. 47% of this sample had difficulty with the law as a juvenile. 11% had been in juvenile institutions before the age of fifteen, and 35% had been in some type of penal institution before the age of eighteen.

This seems to indicate that it is the responsibility of the State of Kansas to provide suitable treatment which would successfully divert juveniles from criminal acts rather than train them further in anti-social behavior.

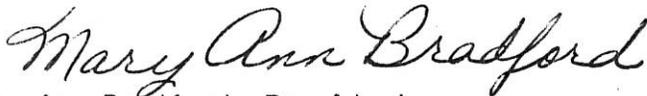
We know that some children have to be placed in secure confinement, but let's make sure that they have committed a crime beyond a reasonable doubt and that there are no alternatives other than a state institution.

We ask you to not only reconsider the new section on the power of judges, but to make it as difficult as possible to keep children, particularly status offenders, from entering the system and ending up in an institution.

Sincerely,



Ann Heberger, Corrections Chairman
Board of Directors, League of Women Voters of Kansas



Mary Ann Bradford, President
League of Women Voters of Kansas

AH/eg

cc/ Senator Arden Booth, Vice Chairman
Senator Bob Madden
Senator Jan Meyers
Senator Jim Parrish
Senator Bob Storey
Representative Mike Glover
Representative Joseph Norvell
Representative Arden Matlack
Representative Fred Lorentz
Representative N. D. Whitaker
Representative Glee Jones
Representative James Lawther

Attached II
11-17-

Comments on Working Draft Number Two for the Special Committee
on Juvenile Matters

K.S.A. 38-808's final sentence should be modified as set out in the proposals by the Kansas Special Judges Association to correct the erroneous wording of the statute which confused the jurisdictional provisions of the juvenile and criminal code. Criminal jurisdiction for waived juveniles should follow K.S.A. 22-2602.

K.S.A. 38-810 should be amended so as to allow service by restricted mail so as not to conflict with K.S.A. 38-817(a). This service is generally as efficient and is less costly than hand carrying.

K.S.A. 38-811 and K.S.A. 38-812 should be modified as set out in the proposed amended version by the Kansas Special Judges Association so as to allow disposition in whichever county, whether the county of residence or the county where the offense occurred, that the ends of justice would be best served. The proposed change would also vest jurisdiction for out-of-state acts in the residential county of the child. This provision is necessary due to the numerous problems caused by the lack of adequate procedures for handling out-of-state juvenile offenses.

K.S.A. 38-815 and K.S.A. 38-817 might be amended to reflect the fact that the parents may retain a guardian ad litem for the child if the court finds that that guardian ad litem would be representing the interests of the child alone. Since the parents are to be assessed the costs they should be able to select the attorney as long as there is no conflict.

K.S.A. 38-824 should be amended by striking the words "commit to" from K.S.A. 38-824(a)(3) and (4) and striking the words "commit with" in K.S.A. 38-824(a)(5) and substituting "place with". It would be improper to place the legal custody of a child who has merely been declared deprived and when the parental rights have not been severed with some agency. Subsection (b) should also be modified as set out in the proposed modification so that one parent out of two might be declared unfit.

K.S.A. 38-826(a)(6) and (7) should be modified by striking the word "commit" and substituting the word "place" for the same reasons as cited in the comments on K.S.A. 38-824. Under section (b) it should be pointed out that the code is taking away all possibility of placing a child in one of the receiving homes unless there is a miscreant or delinquent charge brought against him. There are many instances in which a child is an habitual runaway, truant, or abuser of substances, where no prosecution for a miscreant or delinquent act can be brought. In that the purpose of the juvenile code is to provide treatment and not merely categorize offenses the code should either provide a means of treating children who are self-destructive and unable to function outside of a closed environment like that of the rehabilitation centers or allow them to be treated at the centers if it can be shown that there is no reasonable community alternative available. The centers are meant as treatment centers and not as punishment and do function in that capacity. We should, therefore, not restrict the ability to obtain treatment for arbitrary reasons.

Not Proposed

_____ BILL NO. _____

By Special Committee on Juvenile Matters

Re Proposal No. 30

AN ACT

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

Section 1. K. S. A. 1975 Supp. 38-802 is hereby amended to read as follows: 38-802. As used in this act, unless the context otherwise indicates:

(a) "Children's aid society" means any organization having among its objectives the care, control or protection of dependent ~~and neglected or~~ children who are deprived, delinquent children miscreant, wayward, traffic offenders or truant.

(b) "Delinquent child" means a child less than eighteen (18) years of age ~~+~~ ~~(1)~~ who does an act, ~~other than one defined in subsection (e) of this section,~~ which, if done by a person eighteen (18) years of age or over, would make him such person liable to be arrested and prosecuted for the commission of a felony as defined by K. S. A. 21-3105 ~~+~~ ~~or~~

~~(2) who has been adjudged a miscreant child under this act three (3) or more times.~~

(c) "Miscreant child" means a child less than eighteen (18) years of age:

(1) Who does an act, other than ~~one~~ a traffic offense as defined in subsection ~~(e)~~ (f) of this section, which, if done by

a person eighteen (18) years of age or over, would make him such person liable to be arrested and prosecuted for the commission of a misdemeanor as defined by K. S. A. 21-3105; or

(2) who does an act, other than ~~one~~ a traffic offense as defined in subsection (e) (f) of this section, which, if done by a person eighteen (18) years of age or over, would make him such person liable to be arrested and prosecuted for the violation of any ordinance, police regulation, order, rule or regulation adopted by any authority, city, county, township, or other political subdivision of this state;

~~(3) who does an act, other than one defined in subsection (e) of this section, the commission of which by persons under the age of eighteen (18) years, is specifically prohibited and made unlawful by state law, city ordinance, police regulation, order, rule or regulation adopted by any authority, city, county, township or other political subdivision of this state;~~

~~(4) who has been adjudged a wayward child under this act three (3) or more times; or~~

~~(5) who escapes from or runs away from any juvenile detention home or farm or other juvenile center after placement therein by an order of a juvenile court.~~

(d) "Wayward child" means a child less than eighteen (18) years of age:

(1) whose behavior is injurious to his or her welfare;

(2) who has deserted his or her home without good or sufficient cause; or

(3) who is habitually disobedient to the reasonable and lawful commands of his or her parent, guardian, or other lawful custodian;

(4) who does an act, other than a traffic offense as defined in subsection (f) of this section, the commission of which by persons under the age of eighteen (18) years is specifically prohibited and made unlawful by state law, city ordinance, police regulation, order, rule or regulation adopted by any authority, city, county, township or other political subdivision

of this state; or

(5) who escapes or runs away, without good or sufficient cause, from custody under court order and who is not thereby liable to be prosecuted under subsection (f) of K. S. A. 21-3611.

(e) "Traffic offender" means a child under ~~sixteen--(+6)~~ fourteen (14) years of age who does an act which, if done by a person ~~sixteen--(+6)~~ fourteen (14) years of age or over, would make ~~him-or-her~~ such person liable to be arrested and prosecuted for the commission of a traffic offense as defined in subsection (f) of this section.

(f) "Traffic offense" means the violation of:

(1) Any statute relating to the regulation of traffic on the roads, highways or streets, or the operation of self-propelled or nonself-propelled vehicles of any kind, except ~~violations under K. S. A. 21-3405 and --K.-S.-A., 8-287, 8-1566, 8-1567 or 8-1568;~~ or

(2) any ordinance, police regulation, order, rule or regulation adopted by any authority, city, county, township or other political subdivision of this state which relates to the regulation of traffic on the roads, highways or streets, or the operation of self-propelled or nonself-propelled vehicles of any kind, except any ordinance, police regulation, order, rule or regulation the violation of which also constitutes a violation of K. S. A. 21-3405, 8-287, 8-1566, 8-1567 or 8-1568.

~~(f)~~ (g) "Truant child" means a child who, being by law required to attend school, absents himself or herself therefrom to the extent of being a truant under the provisions of K. S. A. 1975 Supp. 72-1113, ~~and any amendments thereto.~~

~~(g) -- "Dependent and neglected child" means a child less than eighteen--(+8)--years-of-age†~~

~~(†) -- whose parent neglects or refuses, when able so -- to -- do, to -- provide proper or necessary support and education required by law, or other care necessary for his or her well-being†~~

~~(2) -- who is abandoned or mistreated by his -- or -- her -- parent, stepparent, foster parent, guardian, or other lawful custodian†~~

~~(3) -- whose occupation, environment or association is injurious to his or her welfare;~~

~~(4) -- who is otherwise without proper care, custody or support of or~~

~~(5) -- who, by reason of the neglect of his or her parent to provide him or her with proper or necessary support, education or care, is in the custody of a children's aid society or is being supported by the county or state; except that a child shall not be classed as a "dependent and neglected child" under this subsection solely because of the fact that he, the child or his or her parent, or both, receive assistance under the social welfare acts or otherwise receive support from public funds.~~

(h) "Deprived child" means a child less than eighteen (18) years of age:

(1) Who is without proper parental care or control, subsistence, education as required by law or other care or control necessary for such child's physical, mental or emotional health, and the deprivation is not due to the lack of financial means of such child's parents, guardian or other custodian;

(2) who has been placed for care or adoption in violation of law;

(3) who has been abandoned or physically, mentally, emotionally or sexually abused or neglected by his or her parent, guardian or other custodian;

(4) whose parents, guardian or other custodian are unable to discharge their responsibilities to and for the child; or

(5) who is without a parent, guardian or legal custodian.

~~(h)~~ (i) "Parent" or "parents," when used in relation to a child or children, include guardian, conservator and every person who is by law liable to maintain, care for or support a child.

(j) "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of a court.

(k) "Commit" means transfer custody.

(l) "Custody" means the right to have physical custody of a child and the right and duty to provide food, clothing, shelter, ordinary medical care, education and discipline and, in an emergency, to authorize surgery or other extraordinary care for the child. Custody may be taken from a parent only by court order.

(m) "Law enforcement officer" means any person who by virtue of his or her office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

Sec. 2. K. S. A. 38-805 is hereby amended to read as follows: 38-805. (a) The record in the juvenile court shall consist of the petition, process and the service thereof, orders and writs, and such documents shall be recorded in books kept by the juvenile court for such purpose.

~~(b) The official records of the juvenile court shall be open to inspection only by consent of the juvenile court judge, or upon order of a judge of the district court, or upon order of the supreme court.~~

~~(c)~~ (b) All records, files or other information maintained, obtained and records or prepared by the juvenile court or any employee of the juvenile court thereof in connection with a proceeding under the Kansas juvenile code shall be privileged, and shall not be disclosed, directly or indirectly, or open to inspection by anyone other than except:

(1) The juvenile court judge or others entitled under this act to receive such information, unless and until otherwise ordered by such judge and members of the staff of the juvenile court designated by the judge;

(2) the parties to the proceeding and their counsel;

(3) a public or private agency or institution providing supervision or having custody of the child under order of a court; and

(4) any other person, agency, institution or court, upon order of the juvenile court, district court or supreme court.

made only on motion for good cause shown, or on the court's own motion, and subject to such terms and conditions as the court deems proper.

Sec. 3. K. S. A. 1975 Supp. 38-806 is hereby amended to read as follows: 38-806. (a) Except as provided in K. S. A. 21-3611 and subsection (b) of K. S. A. 1975 Supp. 38-808 ~~(b)~~ and unless jurisdiction is by statute specifically conferred upon some other court or courts, the juvenile court of each county of this state shall have:

(1) Exclusive original jurisdiction in proceedings concerning the person of a child living or found within the county who appears to be delinquent, miscreant, wayward, a traffic offender, a truant or ~~dependent and neglected, as defined in K. S. A. 1975 Supp. 38-802,~~ deprived.

(2) Such jurisdiction over other persons as provided by law.

(b) When jurisdiction has been acquired by the juvenile court over the person of a ~~dependent and neglected~~ deprived child, ~~it may the jurisdiction of the court, with respect to the~~ deprived status of such child, shall continue until the child is finally discharged by the juvenile court or has attained the age of twenty-one (21) years, ~~and when the juvenile court has not by order retained jurisdiction, it may be reasserted at any time prior to age twenty-one (21) if such child has not been adopted or placed for the period of his or her minority with a children's aid society or with a public or private institution used as a home or place of detention or correction.~~

(c) When any child is charged with having committed an act ~~of delinquency before reaching the age of eighteen (18) years, is brought before the judge of the juvenile court after reaching~~ said age which would make such child liable to be declared delin- quent, miscreant, wayward, a traffic offender or truant, the jurisdiction of ~~said~~ the juvenile court over such person child for any such act shall not expire on account of the child arriving at the age of eighteen (18) years, but ~~the said person~~ such

child shall continue under the jurisdiction of said court for such act until he or she is finally discharged by the juvenile court or has reached the age of twenty-one (21) years.

Sec. 4. K. S. A. 38-807 is hereby amended to read as follows: 38-807. ~~where~~ When any person applies to any court having jurisdiction for a writ of habeas corpus or other writ or order for the production of a child, and the court finds that such person has abandoned or deserted the child, or that ~~he~~ such person is not a fit and proper person to have the custody of the child, the court may refuse to issue the writ or make the order. If the court shall determine that no person claiming the custody of a child is a fit and proper person to have such custody, it may order said child delivered to the custody of the juvenile court and order the county or district attorney to cause proper proceedings to be instituted to determine whether said child is ~~dependent-and-neglected~~ deprived.

Sec. 5. K. S. A. 38-809 is hereby amended to read as follows: 38-809. The juvenile court, in addition to its general jurisdiction, shall have the power to:

(a) Compel the attendance of witnesses, to examine them on oath, and to preserve order during proceedings before such court.

(b) Issue subpoenas, citations, warrants, executions, and attachments, ~~and~~ and make orders and render judgments and decrees, and ~~to~~ enforce them by any process or procedure appropriate for that purpose.

(c) Issue commissions to take depositions of witnesses, either within or without the state, in any matter pending before it, ~~it--Provided,~~ except that, in any contested matter, notice of the taking of depositions shall be given as provided by law.

(d) Continue or adjourn any hearing from time to time, but ~~when--objection--is--made--the~~ any continuance or adjournment shall be only for good cause and until a time certain.

(e) Correct and amend its records to ~~make--them--speak~~ reflect the truth.

(f) Vacate or modify any of its orders, judgments or

decrees when such is deemed to be in the best interest of the child.

(g) Fine or imprison for contempts of court in the same manner and to the same extent as district courts of this state, except that, in cases of indirect contempts, the judge of ~~such~~ the juvenile court shall assign an attorney to any person so charged who may be unable to employ counsel and may award a reasonable fee to said counsel to be paid from the general fund of the county.

(h) Exercise such other powers as are conferred by law.

Sec. 6. K. S. A. 38-810 is hereby amended to read as follows: 38-810. (a) As directed by the judge of the juvenile court, summons, writs or other process of the juvenile court shall be served by a probation officer of the court, or by the sheriff of any county in the state, or by any person appointed by the court for such purpose. Due return thereof to the court issuing same shall be made by the officer or person to whom it is delivered for service. In all cases, the return must state the time and manner of service.

(b) Except as otherwise provided in subsection (c) of this section, all summonses to appear in the juvenile court, under any section of this act requiring same to be served as provided in this section, shall be served: (1) By delivering a copy of the summons to the person named therein personally; or (2) if such personal service cannot be made, by leaving one at ~~his~~ the person's usual place of residence at least forty-eight (48) hours before the time set in the summons for ~~his~~ such person's appearance at the juvenile court hearing. Due return of service made under this subsection shall be made as provided in subsection (a) of this section ~~+-Provided, That,~~. In the event of a rehearing of ~~such a~~ matter, notice may be waived.

(c) When the parental rights of a parent of a ~~dependent and neglected~~ deprived child may be ~~deprived of his or her parental rights~~ severed and when, upon proper affidavit of the officer or person making the return, the judge of the juvenile court is

satisfied that it is impossible to serve the summons upon such parent pursuant to subsections (a) and (b) of this section, he such judge may order service made by publication once a week for two (2) consecutive weeks in some newspaper of the county authorized to publish legal notices. Said publications shall state the court in which the petition is filed, the nature of the proceedings and that the parental rights of such parent may be ~~deprived of his or her parental rights~~ and severed. Such publication shall also state the names of the persons sought to be served, if known, and, if unknown, shall describe them as unknown, and shall contain notice of the time and place of the hearing, and to there show cause, if any there be, why the judgment, the nature of which shall be stated, should not be rendered accordingly.

Sec. 7. K. S. A. 38-811 is hereby amended to read as follows: 38-811. (a) Venue of any case involving a ~~dependent and neglected~~ deprived child shall be in the county of such child's residence or in the county where he or she may be found.

(b) Venue ~~of~~ for adjudicatory proceedings in any case involving a child alleged to be a delinquent child, a miscreant child, a wayward child, a traffic offender or a truant shall be in any the county where ~~an the~~ the alleged ~~act of delinquency is~~ offense was committed or in the county of ~~his~~ such child's residence.

(c) Venue for dispositional proceedings in any case involving a child alleged to be delinquent, miscreant, wayward, a traffic offender or truant shall be in the county of such child's residence or, if such child is not a resident of this state, in the county where the alleged offense was committed.

(d) Venue in cases involving prosecution of persons charged under ~~section 30 of this act~~ K. S. A. 38-830, as amended, shall be in the county where the alleged offense ~~has been~~ was committed.

Sec. 8. K. S. A. 38-812 is hereby amended to read as follows: 38-812. (a) Upon application of any interested person or

on the court's own motion, an order may be made by the juvenile court in which the original adjudicatory proceedings are pending may make an order transferring said proceedings to the juvenile court of the county where the child is physically present or where the parent or parents reside ~~before or after adjudication~~. The court to which such case is transferred shall accept the case. ~~An interested person, within the meaning of this section, shall be any person who would be entitled to appeal from any order of the juvenile court made in such proceedings.~~ Any judge transferring any case to another juvenile court shall transmit to said court a complete certified transcript thereof and, upon receipt of such transcript, said juvenile court shall assume jurisdiction as if such proceedings were originally filed in such court. In case said child is not present in the county to which such case is transferred, such juvenile court shall return the case to the court where it originated.

(b) An interested person, within the meaning of this section, shall be any person who would be entitled to appeal from any order of the juvenile court made in the proceedings.

Sec. 9. K. S. A. 38-814 is hereby amended to read as follows: 38-814. The judge of the juvenile court may appoint one or more competent persons of good character to serve as juvenile probation officers during ~~his~~ the pleasure of the judge. No person so appointed shall serve as a law enforcement officer at any time during such person's service as a juvenile probation officer. Unless otherwise specifically provided by statute, said probation officers shall receive as compensation, to be paid from the general fund of the county, a reasonable sum to be fixed by the juvenile court. In addition to their compensation, probation officers shall receive the mileage ~~at the~~ rate prescribed by law under K. S. A. 1975 Supp. 75-3203a and amendments thereto for each mile actually and necessarily traveled in the performance of their duties, when such travel is authorized by the judge of the juvenile court. The probation officers may be paid such other necessary traveling expenses as may be authorized by the judge of

the juvenile court.

All probation officers shall furnish the court with any information that may be obtained and render any assistance requested by the juvenile court in any proceeding, which may be helpful to the court or the child. Under the direction of the court, a probation officer shall take ~~possession-and~~ custody of any child under the court's jurisdiction and make such arrangements for the temporary care of any child as directed by the court. Such probation officers shall do and perform such other duties in connection with the work of the juvenile court as may be directed by the court. A person may serve as probation officer of more than one juvenile court and receive compensation and traveling expenses from each of the counties wherein is located a juvenile court which ~~he-shall-serve~~ such person serves.

New Sec. 10. (a) Except as provided in subsection (b) of this section, a law enforcement officer may take a child under eighteen (18) years of age into custody when:

(1) The officer has a warrant or court order commanding that such child be taken into custody; or

(2) The officer has probable cause to believe that a warrant or court order commanding that such child be taken into custody has been issued in this state or in another jurisdiction for an act committed therein which, if committed in this state, would make such child a delinquent child; or

(3) The officer has probable cause to believe that the child is:

(A) A delinquent child; or

(B) A miscreant, wayward, truant or deprived child or a traffic offender, and the officer has probable cause to believe that:

(i) Such child will not be apprehended or evidence of the offense will be irretrievably lost unless such child is immediately taken into custody; or

(ii) Such child may cause injury to self or others or damage to property or may be injured unless immediately taken

into custody; or

(4) Any offense has been or is being committed by such child in the officer's view.

(b) A child fourteen (14) years of age or over may be taken into custody as provided by K. S. A. 22-2401 for the commission of a traffic offense as defined by subsection (f) of K. S. A. 1975 Supp. 38-802, as amended.

Sec. 11. K. S. A. 1975 Supp. 38-815 is hereby amended to read as follows: 38-815. ~~(a) As used in this section, the term "peace officers" includes sheriffs and their deputies, marshals, members of the police force of cities, highway patrolmen, and other officers whose duty it is to enforce the law and preserve the public peace.~~

~~(b)~~ (a) Except as provided in subsection (d) of this section, when any ~~peace~~ law enforcement officer takes into custody a child under the age of eighteen (18) years, with or without a warrant or court order, such child shall not be taken before a municipal judge, district court judge or judge of any other court now or hereafter having jurisdiction of the offense charged, but shall be delivered into the custody of ~~the a~~ juvenile probation officer or be taken forthwith before the juvenile court ~~and~~. It shall be the duty of such peace officer to furnish such juvenile court with all of the information in ~~his~~ such officer's possession pertaining to said child, its parents, guardian or other person interested in, or likely to be interested in, the child, and all other facts and circumstances which caused such child to be taken into custody.

~~(c)~~ (b) Except as provided in subsection (d) of this section, if a child under the age of eighteen (18) years ~~shall~~ have been is taken before a municipal judge, district court judge or judge of any other court, it shall be the duty of such judge to dismiss the charge or complaint and refer same to the juvenile court, and it shall be the duty of the officer having the child in charge to take such child before the juvenile court ~~and~~. It shall be the duty of such judge or officer to deliver to said

juvenile court all of the papers, documents, and other information in ~~his~~ the possession of such judge or officer pertaining to such child.

~~(d)~~ (c) Except as provided in subsection (d) of this section, if during the pendency of any action, charge or complaint against a person involving a public offense or quasi-public offense, before a municipal judge, judge of the district court or judge of any other court, it ~~shall be~~ is ascertained that such person was under the age of eighteen (18) years at the time of committing the alleged offense, it shall be the duty of such judge to forthwith dismiss such action, charge or complaint, and refer same to the juvenile court, together with all the papers, documents, and testimony connected therewith. ~~Provided,~~ ~~No traffic offender action, charge or complaint against a child who has attained the age of sixteen (16) years shall be so dismissed and referred unless it shall be ascertained that he was under sixteen (16) years of age at the time of committing the alleged offense.~~ The officer of the court making said referral, having charge of ~~such~~ the child, shall forthwith take ~~him~~ such child to the place of detention designated by the juvenile court, or to that court itself, or shall ~~release~~ deliver such child to the ~~custody~~ care and control of a ~~duly-appointed~~ juvenile probation officer, or other person designated by the juvenile court, to be brought before the juvenile court at a time and place designated by the judge thereof. Thereupon, the juvenile court shall proceed as provided in subsection (d) of K. S. A. 38-816, as amended.

(d) When a child fourteen (14) years of age or over is charged with the commission of a traffic offense as defined in subsection (f) of K. S. A. 1975 Supp. 38-302, as amended, such child shall be taken before a court of competent jurisdiction for such charge and the same shall not be referred to the juvenile court.

(e) Whenever a child under the age of eighteen (18) years is taken into custody by a peace officer and is thereafter taken

before or referred to the juvenile court as required by this section, such child shall not remain in any detention or custody, other than the custody of the parent, guardian or other person having legal custody of the child, for more than forty-eight (48) hours, excluding Saturdays, Sundays and legal holidays, from the time the initial custody was imposed by a peace officer, unless, within such forty-eight (48) hour period, a determination is made, ~~within such forty-eight (48) hour period~~, as to the necessity for any further detention or custody in a detention hearing or the right to such hearing is waived, as provided in ~~section 4 of this act~~ K. S. A. 1975 Supp. 38-815b, as amended.

Sec. 12. K. S. A. 1975 Supp. 38-815a is hereby amended to read as follows: 38-815a. (a) Neither the fingerprints nor a photograph shall be taken of any child less than eighteen (18) years of age, taken into custody for any purposes, without the consent of the judge of the court having jurisdiction; and when the judge permits the fingerprinting of any such child, the prints shall be taken as a civilian and not as a criminal record.

(b) Except as provided in subsection (c) of this section, all records and files in this state concerning ~~a public an~~ offense committed or alleged to have been committed by a child less than eighteen (18) years of age, shall be kept separate from criminal or other records, and shall not be disclosed, directly or indirectly, or open to inspection, ~~except by order of the juvenile court~~ by anyone except:

(1) The judge, and members of the court staff designated by the judge, of a juvenile court having the child before it in any proceeding;

(2) counsel for a party to the proceeding;

(3) the officers of public institutions or agencies to whom the child is committed;

(4) law enforcement officers of other jurisdictions when necessary for the discharge of their official duties; and

(5) a court in which he or she is convicted of a criminal offense for the purpose of a pre-sentence report or other

dispositional proceeding or by officials of penal institutions and other penal facilities to which he or she is committed, or by a parole board in considering his or her parole or discharge or in exercising supervision over him or her.

(c) Subsection (b) shall not apply to records and files:

(1) Concerning an offense for which jurisdiction of the juvenile court has been waived pursuant to K. S. A. 1975 Supp. 38-808;

(2) Concerning a traffic offense as defined in subsection (f) of K. S. A. 1975 Supp. 38-802, as amended, committed or alleged to have been committed by a child fourteen (14) years of age or more; or

(3) Specified in K. S. A. 38-805, as amended.

(d) It shall be the duty of any ~~peace~~ law enforcement officer, judge or other ~~similar~~ public officer, making or causing to be made any such record or file concerning an offense committed or alleged to have been committed by a child less than eighteen (18) years of age, to at once report promptly to the judge of the juvenile court of ~~his~~ the county of such officer or judge the fact that such record or file has been made and the substance thereof together with all of the information in ~~his~~ the possession of such officer or judge pertaining to the making of such record or file.

~~(e) When a record has been made by or at the instance of any peace officer, judge or other similar officer, concerning a public offense committed or alleged to have been committed by a child less than eighteen (18) years of age, the judge of the juvenile court of the county in which such record is made shall have the power to order such officer or judge to expunge such record; and, if he shall refuse or fail to do so within a reasonable time after receiving such order, he may be adjudged in contempt of court and punished accordingly.~~

~~(d) This section shall be construed as supplemental to and a part of the Kansas juvenile code.~~

New Sec. 13. (a) When any records or files specified in

K. S. A. 38-805 or in subsection (b) of K. S. A. 1975 Supp. 38-815a, both as amended, have been made concerning a person less than eighteen (18) years of age, such person may apply in his or her own behalf or, if such person is a minor, such person's parent, guardian or guardian ad litem may apply to the judge of the juvenile court of any county in which such records or files are maintained to have the records or files in such county sealed. The application shall specify the records or files sought to be sealed and shall state the offense to which such records or files relate. After hearing, the court shall order the sealing of such records and files if the court finds:

(1) That the person has reached an age of twenty-one (21) years or more or that two (2) years have elapsed since the final discharge of the person and

(2) that, since the final discharge of the person, such person has not been convicted of a felony or of a misdemeanor involving moral turpitude or adjudicated a delinquent or miscreant child and no proceeding is pending seeking such conviction or adjudication and

(3) such person has been rehabilitated.

(b) When any records or files specified in K. S. A. 38-805 or K. S. A. 1975 Supp. 38-815a, both as amended, have been made concerning a person less than eighteen (18) years of age, the judge of the juvenile court of the county in which such records or files are maintained may order, at any time, on the judge's own motion and after hearing, the sealing of such records or files.

(c) Notice of any hearing held pursuant to this section shall be given to (1) the county or district attorney of the county in which the records or files are maintained and (2) the person who is the subject of the records or files sought to be sealed. Such notice shall be given in the manner prescribed by K. S. A. 38-810, as amended, or by certified mail to the last known address of the person sought to be notified.

(d) Upon entry of an order sealing records or files, the

offense which such records or files concern shall be treated as if it never occurred. The person, the court and all peace officers and other public officers and agencies shall properly reply on inquiry that no record or file exists with respect to the person. Inspection of the sealed files or records thereafter may be permitted by order of the juvenile court upon petition by the person who is the subject thereof. Such inspection shall be limited to inspection by the person who is the subject of the files or records and those persons designated by such person.

(e) Copies of any order made pursuant to subsection (a) or (b) of this section shall be sent to each public officer and agency in the county having possession of any records or files ordered to be sealed. If any such officer or agency fails to comply with such order within a reasonable time after its receipt, such officer or agency may be adjudged in contempt of court and punished accordingly.

Sec. 14. K. S. A. 1975 Supp. 38-815b is hereby amended to read as follows: 38-815b. (a) Whenever there is required to be a determination as to the need for any detention or custody of a child in a detention hearing under this act, the juvenile court shall immediately set the time and place for such hearing and shall appoint a guardian ad litem for the child, unless one has already been appointed ~~or other counsel for the child has been retained in lieu thereof, to serve until such time as such other counsel may be retained.~~ The costs of such guardian ad litem may be assessed to the parent, guardian or such other person having legal custody of the child as part of the costs of the case as provided in subsection (f) of K. S. A. 1975 Supp. 38-817, as amended.

(b) Oral or written notice of the detention hearing ~~setting forth the time, place and purpose of such hearing~~ and of the appointment of a guardian ad litem shall be given ~~immediately~~ to the child, to the guardian ad litem and, if he one can be found, to the parent, guardian or such other person having legal custody of the child or, if there is none, then to some other relative or

other interested person, if there is one. Such notice shall include ~~a statement advising such persons of the right to retain counsel of their own choosing, and that the court has appointed counsel to serve as guardian ad litem~~ until such time as the court is notified of the name and address of the counsel for the child which has been retained in lieu of such guardian ad litem. Such notice shall set forth the name and address of such guardian ad litem and that the cost of such guardian ad litem may be assessed to the parent, guardian or such other person having legal custody of the child as part of the costs of the case the time, place and purpose of the hearing and the name and address of the guardian ad litem. In addition, such notice shall advise that the cost of the guardian ad litem may be assessed, as a part of the costs of the case, to the parent, guardian or other person having legal custody of the child and that such parent, guardian or other person having legal custody of the child may retain counsel of his or her own choosing, in addition to the guardian ad litem. ~~Written~~ Notice of the detention hearing as provided in this subsection shall be ~~served~~ given at least twenty-four (24) hours prior to the time set for the detention hearing, by the probation officer or by the sheriff of the county or by any other person appointed by the court for such purpose. ~~Except as otherwise specifically provided in this section, such notice shall be served in the manner, other than by publication, provided for the service of summons in K. S. A. 38-310.~~

(c) The juvenile court may order temporary custody or detention as provided in K. S. A. 38-819, as amended, in a detention hearing under this section after determining that: (1) The child is dangerous to ~~himself~~ self or to others; (2) the child is not likely to appear at a hearing for adjudication on any petition filed pursuant to K. S. A. 38-816, as amended; or (3) the health or welfare of the child may be endangered without further care. If temporary custody or detention is ordered and the parent, guardian or other person having legal custody of the child has not been notified of the hearing, did not appear or

waive appearance and files an affidavit showing these facts, the court shall rehear the matter without unnecessary delay.

(d) When the court finds that the continued detention of the child pending adjudication in a hearing on a petition is not required to serve the welfare of the child and the best interests of the state as determined in subsection (c) of this section, the court shall order the child's release and in doing so may place the child in the custody of the parent, guardian or other person having legal custody of the child, or under the supervision of a juvenile probation officer, or may impose any other conditions which may be required subject to modification by the court.

~~(e) This section shall be construed as supplemental to and a part of the Kansas juvenile code.~~

(e) The right of a child to a detention hearing may be waived if:

(1) The child and the child's parent, guardian or other legal custodian, if there is one, are informed, in writing, of the right to have a determination as to the need for detention or custody in a detention hearing and of the right to request such a hearing at any time;

(2) The child, the guardian ad litem for the child and the child's parent, guardian or other legal custodian, if there is one, consent, in writing, to waive the right to a detention hearing; and

(3) The judge of the juvenile court determines that a detention hearing is not required to serve the welfare of the child.

(f) Whenever the right to a detention hearing has been waived pursuant to subsection (e) of this section, the child, the guardian ad litem for the child or the child's parent, guardian or other legal custodian may reassert such right at any time prior to adjudication by submitting a written request to the juvenile judge. Upon such request, the judge shall immediately set the time and place for such hearing, which shall be held in accordance with the provisions of this section and not more than forty-eight (48) hours, excluding Saturdays, Sundays and legal

holidays, after the receipt of the request.

Sec. 15. K. S. A. 38-816 is hereby amended to read as follows: 38-816. (a) Any reputable person eighteen (18) years of age or over having knowledge of a child who appears to be ~~either delinquent, miscreant, wayward, a traffic offender, a truant or dependent and neglected as defined in K. S. A. 1969-Supp. 38-802 and any amendments thereto~~ deprived, may file with the juvenile court having jurisdiction, a petition in writing, verified by affidavit, which shall, in plain and concise language, without repetition, set forth the facts which bring the child under the jurisdiction of the juvenile court; and so far as known: (1) The name, age and residence of the child; (2) the names and residence of his or her parents; (3) the name and residence of his or her legal guardian, if there be one; or (4) the name and residence of the person or persons having custody or control of the child, or of the nearest known relative if no parent or guardian can be found.

(b) Whenever any reputable person shall furnish information to the juvenile court that a child appears to be ~~either delinquent, miscreant, wayward, a traffic offender, a truant or dependent and neglected as defined in K. S. A. 1969-Supp. 38-802 and any amendments thereto~~ deprived, it shall be the duty of such court, or its duly appointed probation officer when requested by the judge thereof, to make a preliminary inquiry to determine whether the interest of the public or of such child requires that further action be taken. Whenever practicable, such inquiry shall include a preliminary investigation of the circumstances which were the subject of such information, including the home and environmental situation and previous history of such child, ~~and his previous history~~. If, after such inquiry, the judge of the juvenile court determines that the circumstances so justify, ~~he~~ such judge shall authorize a petition, in writing, to be filed in ~~his~~ the juvenile court by the person furnishing such information, or by some other reputable person having such knowledge, or, when so requested by such judge, the county or district

attorney shall file such petition. Such petition shall be verified and may be upon information and belief. It shall be in plain and concise language, without repetition, and shall set forth the facts enumerated in subsection (a) of this section, and if any of the facts therein required are not known to the petitioner, the petition shall so state. Upon the filing of such petition, the juvenile court shall proceed as provided in this act.

(c) The proceedings shall be entitled: "In the interest of _____, a child under eighteen (18) years of age."

(d) When, under subsection ~~(d)~~ (c) of K. S. A. ~~1969~~ 1975 Supp. 38-815 and any amendments thereto, a case is referred to the juvenile court, such court may proceed to make preliminary inquiry and investigation and authorize a petition to be filed in the manner as set forth in subsection (b) of this section. ~~Provided~~. The county or district attorney ~~shall~~, when requested by the judge of such court, shall file such petition without such inquiry and investigation. Upon the filing of such petition, such court shall proceed as provided in this act.

(e) No defect in statements of jurisdictional facts actually existing shall invalidate any proceedings.

(f) Upon the hearings on any petition, the judge of the juvenile court may amend the petition to conform with the facts, and render judgment accordingly.

Sec. 16. K. S. A. 1975 Supp. 38-817 is hereby amended to read as follows: 38-817. (a) Upon the filing of a petition to declare a child to be delinquent, miscreant, wayward, a traffic offender, a truant or ~~dependent-and-neglected~~ deprived, the juvenile court shall fix the time and place for the hearing thereon. The date set for hearing shall be within two (2) weeks following the date of the filing of such petition but the court ~~may, on motion~~ may, on motion for good ~~and-sufficient~~ cause shown, may grant a continuance ~~when--deemed--necessary~~ until a time certain. Immediately upon the filing of such petition the court shall give notice of

the time and place of such hearing and of the appointment of a guardian ad litem to the child, to the guardian ad litem and to the parent, guardian or other person having legal custody of such child or, if there be none ~~then,~~ to some relative or other interested person, if there be one. Such notice shall include a ~~statement advising such child and~~ the name and address of the guardian ad litem and shall advise that the parent, guardian or other person having legal custody of such child ~~of~~ has the right to retain counsel of ~~their~~ his or her own choosing ~~but that upon the failure to retain counsel and notify said court of the name and address of such counsel within five (5) days of the service of such notice, the court will forthwith appoint counsel for such child and, in addition to the guardian ad litem, and that the cost of ~~appointed counsel~~ the guardian ad litem may be assessed to the parent, guardian or other person having legal custody of the child as part of the costs of the case. ~~Upon the expiration of such five (5) day period the court shall forthwith appoint counsel for such child and notify counsel, the child and the parent, guardian or other person having legal custody of the child thereof. Provided, however, in case the petition declares the child to be a traffic offender, as defined by subsection (e) of K.S.A. 38-802, and it is such child's first appearance in said court as a traffic offender, the court shall not be required to appoint counsel for said child unless other circumstances warrant such appointment.~~ Such notice and a copy of the petition shall be served by the probation officer of the court or by the sheriff of the county or by registered mail, return receipt requested. ~~Provided, except~~ except that if the judge of the juvenile court is satisfied that by reason of the fact that the whereabouts of the parent, guardian or other person having legal custody of the child is unknown, it is impossible to serve such notice in such manner, ~~he~~ such judge may order service made by publication once each week for two (2) consecutive weeks in a newspaper of the county authorized to publish legal notices. Promptly upon the filing of the petition, the juvenile court may~~

shall send to the secretary of social and rehabilitation services a copy thereof. If requested by the court, the secretary of social and rehabilitation services, without cost to the natural parents or to the petitioner, shall make such investigation as the court may request and be prepared to report ~~his~~ the findings to the court upon the hearing ~~of~~ on the petition.

(b) Unless the parties shall voluntarily appear or be in court, a summons shall issue in the name of the state of Kansas, requiring the child and the person having custody and control of the child or with whom the child may be, to appear with the child at the place and at the time set in the summons.

(c) Unless they shall voluntarily appear or be in court, summons shall also issue to the parents of the child, if living and their residence known, or ~~his~~ to the child's guardian, if one there be, or if there is neither parent nor guardian, or if ~~his~~ the residence of the parent or guardian is unknown, then to some relative, if there be one, and his or her residence is known.

(d) If it shall appear that a parent of the child is confined in the state penitentiary, or any of the state hospitals, or in any state charitable or penal institution, a copy of the summons for said parent shall be served upon said parent, and also upon the person having charge of said institution, by mail. Such service shall be in lieu of the service prescribed by K. S. A. 38-810, as amended. It shall be the duty of the person having charge of said institution to confer with said parent, if said parent's mental condition is such that a conference will serve any useful purpose, and advise the court in writing as to the wishes of such parent with regard to said child. The failure of the person having charge of said institution to perform such duty shall not invalidate the proceeding.

(e) If the person summoned as herein provided shall fail without reasonable cause to appear and abide the order of the juvenile court, or to bring the child, such person may be proceeded against for contempt of court.

(f) At the time fixed in the summons, or by order of the

court, the juvenile court shall proceed to hear and dispose of the case and enter judgment or decree therein. The juvenile court may apply the schedule of fees provided in K. S. A. 28-171, where appropriate, to compute the costs of all proceedings under the Kansas juvenile code and, in the discretion of the court, the costs of such proceedings may be adjudged against the person or persons so summoned or appearing, and collected as provided by law in civil cases, or charged to the county and paid out of the general fund.

(g) All summonses issued pursuant to this section shall state the court in which the petition is filed and all the information appearing in the petition pursuant to subsection (a) of K. S. A. 38-816, as amended. Except as otherwise specifically provided in this section, such summons shall be served as provided in K. S. A. 38-810, as amended.

Sec. 17. K. S. A. 1975 Supp. 38-319 is hereby amended to read as follows: 38-819. (a) Prior to or during the pendency of a hearing on a petition to declare a child to be delinquent, miscreant, wayward, a traffic offender, a truant or ~~dependent and neglected~~ deprived, filed pursuant to K. S. A. 38-816, as amended, the juvenile court may order that such child be placed in some form of temporary detention or custody as provided in this section, ~~but only after~~, Any such detention or custody shall not exceed forty-eight (48) hours, excluding Saturdays, Sundays and legal holidays, unless within such forty-eight (48) hour period a determination is made as to the necessity therefor in a detention hearing or the right to such hearing is waived, as provided in section 4 of this act K. S. A. 1975 Supp. 38-815b as amended.

(b) ~~Upon such a determination~~ Pursuant to subsection (a) of this section, the juvenile court may make an order temporarily granting the custody of such child to some person, other than the parent, guardian or other person having legal custody, or to a children's aid society, or to a public or private institution used as a home or place of detention ~~or correction~~, or to the

secretary of social and rehabilitation services.

~~(c) Upon such a determination Pursuant to subsection (a) of this section,~~ the juvenile court may order ~~any such a~~ child who is alleged to be a delinquent or miscreant child to be placed in detention in the county jail or police station. ~~If the child is less than sixteen (16) years of age, such child shall be placed in quarters separate from adult prisoners. In such cases, the juvenile court, if it deems it advisable, may order such child confined in a jail or police station prior to or during the pendency of the hearing on the petition.~~ When such provisions for separate quarters have not been made ~~for the care and custody of the child in such detention,~~ the juvenile court may order such child to be kept in some suitable place of detention provided by the county other than the county jail or police station.

~~(d) Excluding the periods of time for any continuances requested or consented to by the guardian ad litem for the child and continuances on motion for good cause shown and after a hearing, no child shall remain in temporary detention or custody for more than two (2) weeks unless within such time such child is adjudged by the juvenile court to be delinquent, miscreant, wayward, a traffic offender, truant or deprived.~~

~~(d)~~ (e) Unless otherwise provided for, and subject to payment or reimbursement as required by K. S. A. 1975 Supp. 38-828, the expenses of any temporary detention or custody ordered by the juvenile court pursuant to this section shall be paid out of the state social welfare fund if the child is determined by the secretary of social and rehabilitation services to be eligible for assistance under K. S. A. 39-709, ~~or any amendments thereto,~~ otherwise such expenses shall be paid from the county general fund of the county in which the matter or proceeding is pending.

Sec. 18. K. S. A. 38-820 is hereby amended to read as follows: 38-820. No order or decree permanently ~~depriving a parent of his~~ severing a parent's parental rights in a ~~dependent and neglected~~ deprived child under subsection (c) of ~~section 24 of this act~~ K. S. A. 38-824, as amended, shall be made unless such

parent is present and represented by counsel in juvenile court or has been served with summons as provided in ~~section 10 of this act~~ K. S. A. 38-810, as amended. The judge of the juvenile court shall assign an attorney to any such parent who is unable to employ counsel and may award a reasonable fee to said counsel to be paid from the general fund of the county.

Sec. 19. K. S. A. 1975 Supp. 38-823 is hereby amended to read as follows: 38-823. (a) Prior to or during the pendency of a hearing on a petition filed pursuant to K. S. A. 38-816, ~~or any amendments thereto~~ as amended, the juvenile court may allow the child named in such petition to remain in ~~his or her~~ the child's own home in the custody of the parent, guardian or other person having legal custody of the child, place such child in the care and control of a juvenile probation officer, or order temporary detention or custody as provided in K. S. A. 1975 Supp. 38-819, ~~or any amendments thereto~~ as amended.

(b) ~~In any case~~ Subject to the provisions of subsection (e) of this section, the juvenile court may continue or adjourn a hearing in any case from time to time ~~except as otherwise provided in subsection (e) of this section~~, but any continuance or adjournment shall be only for good cause and until a time certain.

(c) A child, during the pendency of a hearing and before final order or decree, may be referred to the youth center at Atchison ~~or supplementary branch facility thereof~~ or to any state institution with the facilities capable of care, treatment or evaluation of children, except that no child shall be referred to such youth center or ~~facility~~ institution unless the court shall have been previously advised by the secretary of social and rehabilitation services that such youth center or ~~facility~~ institution is a suitable place to care for, treat or evaluate ~~such~~ the type of child and that space is available, ~~and~~. The expenses of transportation to and from said youth center or ~~facility~~ institution may be ~~so~~ paid as part of the expenses of ~~such~~ temporary care and custody. ~~Such~~ The youth center or

facility institution to which such child has been referred may receive, detain, care for, treat and evaluate such child and shall make a report of its findings and recommendations to the juvenile court within ninety (90) days after its acceptance of such child.

(d) Nothing in this section shall be construed to mean that any person shall be relieved of legal responsibility to support a child.

(e) Excluding the periods of time required for any continuances made at the request of the child or the child's counsel, the disposition ~~in a hearing on a petition~~ by the juvenile court shall be made no more than thirty (30) days after adjudication, except that where a child has been referred for evaluation prior to such disposition, the disposition shall be made no more than thirty (30) days after the receipt by the juvenile court of the evaluation report.

Sec. 20. K. S. A. 38-824 is hereby amended to read as follows: 38-824. ~~(a) The provisions of this section shall apply to any child under the age of eighteen (18) years found to be dependent and neglected, within the meaning of this act, either at the initial hearing or any subsequent hearing.~~

~~(b)~~ (a) When a child has been adjudged to be deprived, the juvenile court, in the absence of an order depriving severing parental rights, the juvenile court may make such dependent and neglected child a ward of the court and commit the child an order to:

(1) Place such child in the custody of either or both of his parents subject to such terms and conditions as the court deems proper;

(2) the care, place such child in the custody and control of either or both parents, under the supervision of a juvenile probation officer duly appointed by the court, or other individual, and may make such additional orders directed to the child or the child's parents, or both, as the court deems necessary to effectively carry out the probation;

(3) commit such child to some suitable person;

~~(3)(4) the--care--of--some~~ commit such child to a children's aid society; or

~~(4)(5)~~ commit such child to the secretary of social and rehabilitation services; or

(6) commit such child to the secretary of social and rehabilitation services, with direction to place such child in a state institution used as a home or place of detention for juveniles or in a state-licensed children's facility in the state.

~~(c)~~ (b) When ~~the one or both parents, or parent in the case there is one parent only,~~ of a child who is adjudged to be deprived are ~~(or is)~~ found and adjudged to be unfit ~~persons (or an unfit person)~~ to have the custody of such dependent--and neglected child, K.-S.-A.--38-820 and other all applicable provisions of this act having been fully complied with, the juvenile court may make an order permanently ~~depriving severing the parental rights of~~ such parents, or parent, ~~of their (his or her) parental rights~~ and commit the child:

(1) The custody of the parent whose parental rights are not severed, if the rights of only one parent are severed;

~~(1)(2)~~ To the care of some reputable citizen of good moral character suitable person;

~~(2)(3)~~ to the care--of some suitable public or private institution used as a home or place of detention ~~or correction;~~

~~(3)(4)~~ to the--care--of some association willing to receive ~~it~~ the child, embracing in its objects the purpose of caring for or obtaining homes for dependent--and--neglected deprived children;

~~(4)(5)~~ to the secretary of social and rehabilitation services; or

(6) to the secretary of social and rehabilitation services, with direction to place such child in a state institution used as a home or place of detention or in a state-licensed children's facility in the state.

~~(d)~~ (c) In any case where the juvenile court shall award commit a child to ~~the care of~~ an individual or association, in

accordance with clause ~~(1)~~(2) or ~~(3)~~(4) of subsection ~~(c)~~ (b) of this section, the child shall, unless otherwise ordered, become a ward of, and be subject to the guardianship of the individual or association to whose care it is committed. Such individual or association shall have authority to place such child in a family home, give consent for the adoption of such child, and be party to proceedings for the legal adoption of the child, and such consent shall be the only consent required to authorize the probate court to enter proper order or decree of adoption. In any case where the juvenile court shall ~~award~~ commit a child to ~~the--care~~ of the secretary of social and rehabilitation services, in accordance with clause ~~(4)~~ (5) or (6) of subsection ~~(c)~~ (b) of this section, said state secretary of social and rehabilitation services shall be the guardian of the person and the estate of said child and shall be empowered to place such child for adoption and give consent therefor, or to make transfer of such child for adoption and give consent therefor, or to make transfer of such child as provided for by K. S. A. 38-825, as amended. In any such case, upon the filing of the application provided for in K. S. A. ~~1972~~ 1975 Supp. 59-3009, ~~of the act entitled "act for obtaining a guardian or conservator, or both"~~ by the secretary of social and rehabilitation services, the court shall forthwith appoint the secretary of social and rehabilitation services the "conservator" of such child.

~~(c)~~ (d) When the health or condition of ~~such dependent--and neglected~~ a deprived child shall require ~~it~~, the juvenile court may cause the child to be placed in a public or private hospital under the care of a competent physician. In cases other than those provided for in subsection ~~(c)~~ (c) above, the juvenile court may delegate the authority to issue consents to the performance and furnishing of hospital, medical or surgical treatment or procedures to the individual, association, or agency to whom the court has ~~granted custody of~~ committed such child pursuant to subsection (b) of this section.

(e) When a child has been adjudged to be a wayward or

truant child under the provisions of this act, the juvenile court may make an order:

(1) Committing or placing such child in the same manner as provided in paragraphs (1), (2), (3), (4), (5) or (6) of subsection (a) of this section; or

(2) committing such child, if a boy thirteen (13) years of age or older, to the youth center at Topeka or other training or rehabilitation facility for juveniles or, if a girl thirteen (13) years of age or older, to the youth center at Beloit or other training or rehabilitation facility for juveniles.

(f) When a child has been adjudged to be a traffic offender under the provisions of this act, the judge of the juvenile court may make an order:

(1) Committing or placing such child in the same manner as provided in paragraphs (1), (2), (3), (4), (5) or (6) of subsection (a) of this section; or

(2) committing such child, if a boy thirteen (13) years of age or older, to the youth center at Topeka or other training or rehabilitation facility for juveniles or, if a girl thirteen (13) years of age or older, to the youth center at Beloit or other training or rehabilitation facility for juveniles.

Sec. 21. K. S. A. 38-825 is hereby amended to read as follows: 38-825. (a) When a ~~dependent--and--neglected~~ deprived child has been committed to the secretary of social and rehabilitation services pursuant to clause (5) of subsection (a) or clause (5) of subsection (b) of K. S. A. 38-824, as amended, said secretary, if he or she deems it to be in the best interest of the child, may place the child in the ~~Kansas-children's-receiving home--or~~ youth center at Atchison, in a foster care facility, ~~or may--transfer--such--child--to--the--jurisdiction--of~~ in a children's aid society willing to accept the child, ~~or,~~ with the written consent of the judge of the juvenile court ~~to,~~ in the home of the parent, ~~or parents, who~~ if the parental rights of such parent or parents have not been deprived-of-parental-rights severed.

(b) Unless parental rights have been severed, a parent or

parents of a child ~~under the jurisdiction of~~ committed to the secretary of social and rehabilitation services, ~~who has not been deprived of his parental rights,~~ may file with the juvenile court having jurisdiction, a petition in writing for the return of such child to ~~him or them~~ such parent or parents. Such petition shall be verified by affidavit and shall state the name, age and residence of the child and name and residence of each petitioner. The court shall fix a time and place for a hearing on such petition and shall notify each petitioner and the secretary of social and rehabilitation services of such time and place. If after the hearing, the court shall determine from the evidence that it would be to the best interests of the child ~~that--he~~ to be returned to his or her parent or parents, it shall so order.

(c) When a child has been committed to the secretary of social and rehabilitation services pursuant to subsection (a), (e) or (f) of K. S. A. 38-824 or pursuant to K. S. A. 38-826, both as amended, and the court has not directed placement of such child in a state institution or children's facility, the secretary may place the child in any institution operated by the director of mental health and retardation services or may contract and pay for the placement of the child in a county detention home or in a private children's home, as defined by K. S. A. 1975 Supp. 75-3329, or for the placement of such child in a child care facility, boarding home for children or community mental health clinic. After such placement, the secretary shall retain custody over the child and may place such child at any time in any institution, detention home, mental health clinic, private children's home, child care facility or boarding home for children.

(d) When a child has been committed to the secretary of social and rehabilitation services pursuant to K. S. A. 38-824 or K. S. A. 38-826, both as amended, and the court has not directed placement of such child in a state institution or children's facility, the secretary shall file a report on the child's status with the juvenile court each six (6) months after commitment to

the secretary and each time a change of placement is made by the secretary. If a change in placement has been made the juvenile court, within seven (7) days of the receipt of the report, shall send notice of such change to the guardian ad litem for the child and the child's parent or parents, guardian or other legal custodian, such notice to be by certified mail to the last known address of the person sought to be notified. Upon its own motion or upon the motion of the guardian ad litem, the parent, guardian or other legal custodian or the secretary of social and rehabilitation services, the court shall review the placement of the child and may order that the commitment to the secretary remain in effect or may order that such commitment be revoked and commit or place such child in accordance with the appropriate subsection of K. S. A. 38-824 or in accordance with K. S. A. 38-826, both as amended.

Sec. 22. K. S. A. 38-826 is hereby amended to read as follows: 38-826. ~~(a)~~ When a child has been adjudged to be a delinquent child or a miscreant child under the provisions of this act, the judge of the juvenile court may make an order to:

~~(1)~~ (a) Place such child ~~on-probation~~ in the ~~care~~ custody ~~and-control~~ of either or both ~~of his~~ parents, subject to such terms and conditions as the ~~juvenile court may deem~~ deems proper ~~and may make such additional orders directed to the juvenile or his parents or both as may be deemed necessary to effectively carry out the probation;~~

~~(2)~~ (b) place such child in the care custody ~~and-control~~ of ~~a duly-appointed~~ either or both parents, under the supervision of a juvenile probation officer or other, and may make such additional orders directed to the child or the child's parents, or both, as the court deems necessary to effectively carry out the probation;

(c) commit such child to some suitable person, subject to such terms and conditions as the juvenile court may deem proper;

~~(3)~~ (d) place ~~commit~~ such child ~~in~~ to a detention home, parental home or farm, subject to such terms and conditions as

the juvenile court may deem proper;

~~(4)(e) place commit such child in--the--care--of to a children's aid society, subject to such terms and conditions as the juvenile court may deem proper. Provided,--however,--That if such--child--is--sixteen--(16)--years--of--age--or--over,--the--juvenile court may place such child in the county jail pending final disposition--or--may place him on probation on such terms and conditions as the juvenile court may deem proper;~~

(5) (f) commit such child to the state secretary of social and rehabilitation services;

(g) commit such child to the secretary of social and rehabilitation services, with direction to place such child in a state institution used as a home or place of detention for juveniles or in a state-licensed children's facility; or

(6) (h) commit such child, if a boy thirteen (13) years of age or older, to the state--industrial-school-for-boys youth center at Topeka or other training or rehabilitation facility for juveniles or, if a girl thirteen (13) years of age or older, to the state--industrial-school-for-girls youth center at Beloit or other training or rehabilitation facility for juveniles. Provided, That from the effective date of this act and until July 1, 1975, no child sixteen (16) years of age or over shall be committed to the state industrial school for boys, state industrial school for girls or other training or rehabilitation facility for juveniles unless the court shall have been previously advised by the director of mental health and retardation services that space is available at one of such facilities for the care, treatment and training of such child.

~~(b) When a child has been adjudged to be a wayward child or a truant under the provisions of this act, the judge of the juvenile court may make an order to place such child in the same manner as provided in paragraphs (1), (2), (3), (4) and (5) of subsection (a) of this section.~~

~~(c) When a child has been adjudged to be a traffic offender under the provisions of this act, the judge of the juvenile court~~

~~may make an order:~~

~~(1) Imposing a penalty of not more than one hundred fifty dollars -- (\$150) for each offense, which penalty shall be in addition to any costs adjudged against such offender in the discretion of the juvenile court;~~

~~(2) suspending or revoking his motor vehicle operator's license and requiring a copy of the order to be forwarded by certified mail, to the division of vehicles of the department of revenue together with a statement of the fact showing that such offender has committed an act making him a traffic offender under the provisions of this act, and the division of vehicles of the department of revenue shall forthwith comply with said order by suspending or revoking his motor vehicle operator's license;~~

~~(3) directing such offender to attend a police department traffic school in a city of the county in which he has residence;~~
~~or~~

~~(4) placing such child in the same manner as provided in paragraphs (1), (2), (3) and (4) of subsection (a) of this section;~~

~~(d) When a child has been committed to the state secretary of social and rehabilitation services, pursuant to subsection (a) (5) or subsection (b) of this section, said secretary may place the child in any institution operated by the director of mental health and retardation services, or it may contract and pay for the placement of the child in a county detention home or in a private children's home, as defined by K.S.A. 1972 Supp. 75-3329, or for the placement of such child in a child care facility, or boarding home for children, or in a community mental health clinic;~~

~~(e) After placement of a child, the secretary of social and rehabilitation services shall retain jurisdiction over the child, and it may transfer such child at any time to any institution, detention home, mental health clinic, private children's home, child care facility or boarding home for children;~~

New Sec. 23. (a) At any time after the entry of any final

order by the juvenile court placing or committing a child pursuant to subsection (a), (e) or (f) of K. S. A. 38-824 or pursuant to K. S. A. 38-826, both as amended, the secretary of social and rehabilitation services, the guardian ad litem for the child, the child's parent, guardian or other legal custodian or any party to the original proceeding may file a motion with the juvenile court for a rehearing on the issue of such placement or commitment. Upon such motion, the court shall rehear the matter without unnecessary delay.

(b) An appeal from any final order by the juvenile court placing or committing a child pursuant to subsection (a), (e) or (f) of K. S. A. 38-824 or pursuant to K. S. A. 38-826, both as amended, shall be allowed to the district court by the secretary of social and rehabilitation services, the guardian ad litem for the child, the child's parent, guardian or other legal custodian or any party to the original proceeding. Such appeal shall be taken in the manner provided by K. S. A. 38-834.

Sec. 24. K. S. A. 1975 Supp. 38-827a is hereby amended to read as follows: 38-827a. (a) Unless otherwise provided for, and subject to payment or reimbursement as required by K. S. A. 1975 Supp. 38-828, ~~or any amendments thereto~~ the expenses of the care and custody of a ~~dependent and neglected~~ deprived child, committed under ~~clauses (2)~~ clause (2), (3) and (4), (5) or (6) of subsection ~~(b)~~ (a) of K. S. A. 38-824, ~~or any amendments thereto as amended~~, or placed in a hospital under subsection ~~(e)~~ (d) of K. S. A. 38-824, ~~or any amendments thereto as amended~~, or referred to the youth center at Atchison or facility thereof under subsection (c) of K. S. A. 1975 Supp. 38-823, ~~or any amendments thereto as amended~~, shall be paid out of the state social welfare fund if such child is eligible for assistance under K. S. A. 39-709, ~~or any amendments thereto~~. Otherwise, such expenses shall be paid out of the general fund of the county in which the proceedings are brought. For the purpose of this subsection, a child who is a nonresident of the state of Kansas or whose residence is unknown shall have residence in the county

where the proceedings are instituted.

(b) Unless otherwise provided for, and subject to payment or reimbursement as required by K. S. A. 1975 Supp. 38-828, ~~or any amendments thereto~~, the expenses of the care and custody of a wayward or truant child or a traffic offender committed in accordance with clause (3), (4), (5) or (6) of subsection (a) of K. S. A. 38-824, as amended, or in accordance with clause (e) (2) or (f) (2) of K. S. A. 38-824, as amended, or of a delinquent or miscreant child placed committed in accordance with the provisions of ~~clauses (2), (3), (4) and (5)~~ of subsection (a), (c), (d), (e), (f), (g) or (h) of K. S. A. 38-826, ~~or any amendments thereto~~ as amended, or referred to the youth center at Atchison or facility thereof or other facility under subsection (c) of K. S. A. 1975 Supp. 38-823, as amended, shall be paid out of the state social welfare fund if such child is eligible for assistance under K. S. A. 39-709, ~~or any amendments thereto~~. Otherwise such expenses shall be paid out of the general fund of the county in which the proceedings are brought. ~~Provided, except~~ that the expenses of the care and custody of any wayward or truant held or traffic offender committed to the secretary of social and rehabilitation services in accordance with clause (5) or (6) of subsection (a) of K. S. A. 38-824, as amended, or of any delinquent or miscreant child committed to the secretary of social and rehabilitation services pursuant to clause (5) of subsection (a) (f) or (g) of K. S. A. 38-826, ~~or any amendments thereto~~, as amended, shall not be paid out of the county general fund.

(c) When a child is committed under clause ~~(4)~~ (5) or (6) of subsection ~~(b)~~ (a) of K. S. A. 38-824, ~~or any amendments thereto as amended~~, or under ~~clause (5) of subsection (a) (f) or (g) of K. S. A. 38-826, ~~or any amendments thereto~~ as amended~~, the expenses of the care and custody of such child may be paid out of the state social welfare fund, subject to payment or reimbursement as required in K. S. A. 38-828, ~~or any amendments thereto~~, even though the child does not meet the eligibility standards of K. S. A. 39-709, ~~or any amendments thereto~~.

(d) Nothing in this act shall be construed to mean that any person shall be relieved of his or her legal responsibility to support a child.

Sec. 25. K. S. A. 38-829 is hereby amended to read as follows: 38-829. In any proceedings where a ~~dependent--and neglected~~ deprived, delinquent, miscreant, wayward or a truant child has been placed ~~in the care and custody of~~ with or committed to any children's aid society or individual by the court, the court may cause the child to be brought before it, together with the person or persons ~~in whose custody he may be~~ with whom such child is placed or to whom such child is committed, and if it shall appear that a continuance of such custody placement or commitment is not ~~for~~ in the best interests of such child, the court may revoke and set aside the order ~~giving--such--custody making such placement or commitment~~ and may make such further orders ~~in the premises~~ as to the future custody placement or commitment of the child as shall seem best.

Sec. 26. K. S. A. 38-830 is hereby amended to read as follows: 38-830. (a) In all cases where any child ~~shall be--a~~ is adjudged or alleged to be delinquent, a miscreant, wayward, a traffic offender, truant, or ~~a dependent and neglected child, as defined--in--section--38--802--of--the--General--Statutes--Supplement--of--1957--or--any--amendments--thereto~~ deprived, any parent or other person over eighteen (18) years of age, who is responsible for such child's act or for such ~~dependency and neglect~~ child's being deprived, or any parent or other person over eighteen (18) years of age, who shall by any act ~~have~~ has caused or encouraged same, or contributed thereto, shall be deemed guilty of a class B misdemeanor, ~~and upon trial and conviction thereof shall be fined in a sum not to exceed one thousand dollars (\$1,000), or imprisoned in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment.~~

(b) The juvenile court shall have jurisdiction of all cases coming within the provisions of this section, and the judge thereof may proceed to the hearing on the complaint charging that

any parent or other person has violated the provisions of subsection (a) of this section, even though a petition has not been filed in the interest of a child under the provisions of ~~section K. S. A. 38-816 of the General Statutes Supplement of 1957 or any amendments thereto, as amended.~~

(c) Upon the request of the judge of the juvenile court, the county or district attorney shall prosecute any parent or other person charged with violating the provisions of subsection (a) of this section.

(d) The judge of the juvenile court shall ~~assign~~ appoint an attorney ~~to~~ for any parent or other person charged under subsection (a) of this section who is unable to employ counsel and may award a reasonable fee to ~~said counsel~~ such attorney to be paid from the general fund of the county.

Sec. 27. K. S. A. 38-839 is hereby amended to read as follows: 38-839. When any child under the age of eighteen (18) years has been taken into custody by a law enforcement official, and such child indicates in any manner and at any stage of the process that he or she wishes to consult with an attorney before speaking, ~~he~~ such child shall not be questioned until he or she has had an opportunity to consult with ~~retained or appointed counsel~~ the guardian ad litem appointed in the case. Except in cases where there is imminent danger that such child will escape, it shall be the duty of the law enforcement official having custody of the detained child to provide a suitable place where ~~he~~ such child may confer privately with ~~his attorney~~ the guardian ad litem without surveillance or other intrusion by ~~the~~ law enforcement officials. The court shall prescribe by rule the procedure to be followed in obtaining the services of ~~counsel~~ a guardian ad litem to represent indigent children detained by such law enforcement officials prior to appearance before the court and may award a reasonable fee to ~~said counsel~~ the guardian ad litem to be paid from the general fund of the county. ~~This section shall be a part of and supplemental to the Kansas juvenile code.~~

New Sec. 28. [(a) Any reputable person may file in the

juvenile court of the county of the residence of a child less than eighteen (18) years of age a verified application to determine whether such child is a mentally ill person, as defined by K. S. A. 1975 Supp. 59-2902 and any amendments thereto. Such application shall be in the form and manner provided by K. S. A. 59-2913 and any amendments thereto.]

[(b) If, at any time during the pendency of a proceeding under the juvenile code concerning a child, the judge of the juvenile court determines that the circumstances so warrant, such judge shall authorize the filing of an application to determine whether such child is a mentally ill person, as defined by K. S. A. 1975 Supp. 59-2902 and any amendments thereto, by a reputable person having knowledge of the facts of the case. Such application shall be in the form and manner provided by K. S. A. 59-2913 and any amendments thereto.]

(c) When an application has been filed as provided in subsection (a) or (6) of this section, the juvenile court shall proceed in the manner provided in article 29 of chapter 59 of the Kansas Statutes Annotated and acts amendatory thereof and supplementary thereto and may make any order which the probate court is empowered to make thereunder.

New Sec. 29. The secretary of health and environment shall and is hereby authorized to promulgate standards for and inspect jails and juvenile detention facilities where children under eighteen (18) years of age are housed or detained. Such standards shall include standards relating to programs and services for juveniles and standards of sanitation and safety. In promulgating such standards and in inspecting such jails and facilities, the secretary of health and environment shall request assistance from the secretary of social and rehabilitation services.

Attachment 2
11-19-75

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

Your committee on Public Health and Welfare

Recommends that House Bill No. 2561

"AN ACT concerning minor children; prescribing certain duties for the governor; providing for the entering into of a certain interstate compact; and establishing and describing the form of such compact."

Be amended:

On page 1, line 19, by striking all after the second period;

On page 2, line 1, by striking all before the word "with" and inserting in lieu thereof the following: "The interstate compact on the placement of children is hereby enacted into law and entered into";

In the title, line 1, by striking all after the semicolon; by striking all of lines 2 and 3; in line 4, by striking the word "compact" and inserting in lieu thereof the following: "enacting and joining the state of Kansas with other states in the Interstate Compact on the Placement of Children; providing for the administration and implementation of such compact";

And the bill be passed as amended.

_____ Chairman.

*Attachment v
11-19-75
incorporate into
juvenile code*

PROPOSED BILL NO. _____

By Special Committee on Juvenile Matters

Re Proposal No. 30

AN ACT prohibiting confinement of children in certain facilities.

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

Section 1. (a) No child less than sixteen (16) years of age shall be confined in a jail or police station for the commission or alleged commission of a traffic offense as defined in K. S. A. 1975 Supp. 38-802 and amendments thereto.

(b) Any child sixteen (16) or seventeen (17) years of age confined in a jail or police station for the commission or alleged commission of a traffic offense as defined in K. S. A. 1975 Supp. 38-802 and amendments thereto shall be confined in quarters separate from adult prisoners.

(c) This section shall be construed as supplemental to and a part of chapter 8 of the Kansas Statutes Annotated.

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