Approved _	6-27-90	
ppro.ca —	Date	

MINUTES OF THE SENATE	COMMI	TTEE ON _		JUDICIA	RY	
The meeting was called to order by	/	Senator	Wint		Jr. irperson	at
12:00_	March	21		,	, 19 <u>90</u> in room3 <u>13-s</u>	of the Capitol.
All members were present except:	Senators who were		, Ga:	ines, Ma	rtin and Rock,	

Committee staff present:

Mike Heim, Legislative Research Department Jerry Donaldson, Legislative Research Department Gordon Self, Office of Revisor of Statutes Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Roberta Sue McKenna, Kansas Department of Social and Rehabilitation Services Robert Barnum, Kansas Department of Social and Rehabilitation Services Bill Miskell, Kansas Department of Corrections James Clark, Kansas County and District Attorneys Association Helen Stephens, Kansas Police Officers Association Nancy Lindberg, Office of the Attorney General

The Chairman reopened the hearing for SB 641.

SB 641 - concerning payment of the cost of transportation of alleged juvenile offenders to and from hearings.

Roberta Sue McKenna, Youth Services Legal Counsel, Social and Rehabilitation Services, testified in support of  $\underline{SB}$   $\underline{641}$ . She stated it is necessary to insure the protection and safety of social workers and that is not always possible when they are solely responsible for transporting some juveniles. She added they feel the transporting of juveniles is the responsibility of law enforcement and not social workers.

As no other conferees appeared, this concluded the hearing for SB 641.

The Chairman continued the hearings for:

- SB 521 concerning juveniles; creating master planning commission for juvenile affairs.
- SB 526 concerning juvenile offenders; relating to prosecution as an adult; notice to victims of release or discharge of certain juvenile offenders.
- SB 741 concerning juvenile offenders; relating to their release at the age of 21; providing for a hearing to allow the department of social and rehabilitation services to retain custody.
- SB 742 concerning juveniles; prohibiting detention in adult jails; development of alternatives to detention.
- SB 743 concerning corrections; comprehensive plans for correctional services and corrections advisory boards including juvenile offenders advisory boards.
- HB 3041 concerning juvenile offenders; relating to the length of detention.

Robert Barnum, Commissioner of Youth Services, Social and Rehabilitation Services, responded to questioning from the committee on <u>SB 521</u> that the master planning commission would meld the scope of the two existing committees on child and youth. He added that the cost would be similar to that for the Kansas Sentencing Commission.

Mr. Barnum also presented additional written materials regarding SB 742. (ATTACHMENT I)

Bill Miskell, Kansas Department of Corrections, testified in support of  $\underline{SB\ 521}$  and  $\underline{SB\ 526}$ . (ATTACHMENTS II and III)

James Clark, Kansas County and District Attorneys Association, testified on  $\underline{SB}$  742 by restating the testimony of Chris Biggs, Geary County District Attorney, presented at the morning hearing. He added that they urge the passage of  $\underline{HB}$  3041 instead because it gives the rural areas more time to meet the mandated conditions.

## CONTINUATION SHEET

MINUTES OF THE SENATE	_ COMMITTEE ON	JUDICIARY	
room 313-S, Statehouse, at 12:	00 <b>жкик</b> /р.m. on	March 21	, 19 <u>90</u>

Mr. Clark also testified in support of SB 526. (ATTACHMENT IV and V)

Helen Stephens, Kansas Police Officers Association, testified in support of <u>SB 521</u> and <u>SB 526</u> by restating the previous testimony in support. She also adressed <u>SB 742</u> and <u>HB 3041</u> by stating the police officers are often in the middle. She added that with the current available facilities it is not always possible to meet the guidelines of separation of juveniles from adult inmates by sight and sound on the local level. She concluded by stating that some guidelines by the state do need to be established.

Nancy Lindberg presented the written testimony of Edwin Van Petten, Deputy Attorney General, in support of <u>SB 521</u>, <u>SB 526</u> and <u>SB 742</u>. (<u>ATTACHMENTS VI, VII and VIII</u>)

Written testimony was distributed to the committee from:

Sister Therese Bangert, Kansas Council on Crime and Delinquency, in support of  $\underline{SB}$  521 and  $\underline{SB}$  741. (ATTACHMENT IX)

Doug Bowman, Children and Youth Advisory Committee, regarding SB 521. (ATTACHMENT X)

James McHenry, Kansas Child Abuse Prevention Council, in support of SB 742. (ATTACHMENT XI)

Bruce Linhos, Children's Coalition, in support of SB 742. (ATTACHMENT XII)

Westridge Group, in support of SB 742. (ATTACHMENT XIII)

Ann Hebberger, League of Women Voters of Kansas, in support of <u>SB 742</u> (<u>ATTACHMENT XIV</u>) and supporting <u>SB 521</u> but opposing <u>SB 526</u>. (<u>ATTACHMENT XV</u>)

The meeting was adjourned until March 22 at 10:00 a.m.

## DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Testimony Before

Senate Judiciary Committee

Regarding

Senate Bill 742

on

March 20, 1990

Robert C. Barnum Commissioner of Youth Services

presented on behalf of:

Winston Barton, Secretary Department of Social & Rehabilitation Services

> Senate Judiciary Committee 3-21-90 pm Attachment I page 1 of 4

## DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES Winston Barton, Secretary

Testimony in Support of Senate Bill 742

AN ACT CONCERNING JUVENILES: PROHIBITING DETENTION IN ADULT JAILS, DEVELOPMENT OF ALTERNATIVES

Mr. Chairman, Members of the Committee, I appear before you today regarding Senate Bill 742, which prohibits the holding of juveniles in adult jails and provides a mechanism for providing alternatives.

The bill (as ballooned) will prohibit the holding of CINCs in an adult jail for any period of time after July 1, 1990. prohibit the holding of other juveniles in jails after July 1, 1991 with the following exceptions:

- Pre-adjudicated juvenile offenders could be held for up to sight and sound separated quarters for hours in processing purposes.
- 2. Juvenile offenders on whom a waiver to adult court has been those charged with aggravated juvenile delinquency; and those charged under the three strikes provision.
- 3. Pre-adjudicated juvenile offenders for up to 24 hours under the conditions in lines 8 - 22 on page 7 of the bill. exception allowed through 1993)

The bill (as ballooned) also contains a provision that appropriated under KSA 79-4803 for the juvenile detention facilities fund would be used to assist counties in providing detention beds.

Kansas communities held approximately 1500 juveniles in adult jails in 1987 and 1988, and 1225 in 1989. Kansas youths merit access to alternatives other than adult jails for the following reasons:

- 1. The policy of sight and sound separation from adults in jails failed either because it is difficult to largely establish, thus exposing a juvenile to potential abusive behavior by adults, or because it places juveniles in isolation where they may suffer emotionally or hurt themselves behavior In 1983, two youths committed suicide in the physically. Sherman and Washington County jails, and national evidence shows that youths in jail are five times more likely to commit suicide than youth in the general population, and eight times more likely than youth in detention centers.
- 2. There is a lack of programs for youth in jails, and it is clear that federal courseling that federal courseling is required for juveniles have said programming, including exercise, counseling, education, (3-21-90 pm) clear that federal courts in maintaining that "special

recreation, privacy, medical and adequate diet must be provided for those held in detention. This type of programming and adequate staff supervision cannot be provided in adult jails. In 1982 a federal district court judge ruled (D.B. v Tewksbury) that the holding of juveniles in adult jails was unconstitutional because it is a violation of due process rights of children to place them in jails which per se cannot provide special solicitude.

- 3. Youths in jail are a management problem for jailors. Many have difficulty meeting sight and sound requirements; none can provide the personnel requirements for meeting program needs and full time trained staff supervision; and all are burdened with the priority of the needs of adult inmates.
- officials face potential communities and their 4. Kansas liability for holding juveniles in adult jails. Sheriffs. judges and county officials have been found liable in a number of states for holding juveniles in adult jails and, in some instances, have had to pay damages plus court costs where harm occurred to individual youths. In many other jurisdictions, counties have had to pay costs of actions which resulted in In the case of the State there is some consent decrees. evidence from the case of Hendrickson v Griggs in Iowa that a state may be held accountable if it has not instituted jail removal actions.
- 5. Kansas faces imminent loss of participating status in the Juvenile Justice and Delinquency Prevention Act (JJDPA). The JJDPA was established by Congress in 1974 with the broad goal of improving the juvenile justice system. Kansas entered the JJDP Act in 1978 through the actions of the Governor and Legislature. The Act requires the Governor to appoint an advisory committee with power over the use of funds, and to designate a state agency with administrative responsibility. The six million dollars received over the 12 years of Kansas' participation have been used for a wide variety of juvenile justice system improvements.

Loss of participating status will result in the following:

- (A) Loss of \$457,000 in 1990 and similar amounts in future years;
- (B) Loss of technical assistance; in the past it has been provided to Wyandotte, Reno, Douglas and Crawford Counties, and to the State.
- (C) Continued liability for the State's communities on the jail issue without having funds or technical assistance to address the issue. Some of Kansas' allocated funds would be given to a private non-profit agency to continue the jail removal effort, including bringing suits to force compliance.

(3-21-90 pm) I 3/4

- (D) To gain re-entry to the program, 100% compliance would be required. (We are currently on a three-year waiver status, which would not be available to a state trying to re-enter).
- 6. The Advisory Commission on Juvenile Offender Programs utilizing JJDPA federal formula funds and SRS utilizing special JJDPA discretionary and state funds have increased the capabilities of local jurisdictions to deal with juveniles without utilizing jails. This effort has emphasized a continuum of care in the form of intake services; the use of non-secure placement ranging from release to parents to attendant care, and as a final measure, detention beds for those juvenile offenders who have committed serious offenses. The following programs are included:
  - (A) Intake services to provide law enforcement alternatives to putting a child in jail (Cowley, Crawford, Douglas, Lyon, Finney, Bourbon, Linn, Miami, Riley).
  - (B) Attendant Care facilities currently operational for 18 counties and being developed in 24 additional counties, with others expressing interest.
  - (C) Developmental work for 80 counties on building regional detention or combination detention/shelter facilities. Full plans including site development, architectural drawings and funding mechanisms are to be completed by August 6, 1990. The planning is to include inter-county agreements.
  - (D) The first three years operational costs for the Saline County Detention Center, the encouragement of the building of the Reno County detention facility which recently opened, and the Wyandotte detention facility which is expected to open this spring. (The opening of these two facilities should reduce the number of juveniles jailed statewide by 25%).
  - (E) Reimbursement of partial costs to counties without detention centers if they transport their offenders to another county's detention center.

Robert C. Barnum Commissioner Youth Services Department of Social and Rehabilitation Services (913) 296-3284

> (3-21-90 pm) I 4/4



## DEPARTMENT OF CORRECTIONS

#### OFFICE OF THE SECRETARY

Landon State Office Building 900 S.W. Jackson—Suite 400-N Topeka, Kansas 66612-1284 (913) 296-3317

Steven J. Davies, Ph.D. Secretary

Mike Hayden Governor

March 20, 1990

#### TESTIMONY

#### SENATE BILL 521

Creating a Master Planning Commission for Juvenile Affairs

Senate Bill 521 was introduced at the request of the Criminal Justice Coordinating Council (CJCC). The CJCC is chaired by the Secretary of Corrections, and it's membership includes the Chief Justice of the Kansas Supreme Court, the Attorney General, the Secretary of Social and Rehabilitation Services, the Chairman of the Kansas Parole Board, the Governor's Chief Legal Counsel, one District Court Judge, and four members of the Legislature.

The CJCC held several hearings during the fall and winter of 1989 regarding improvements which could be made to the juvenile system, ranging from children "at risk" to juvenile offenders. Development of the concept contained in S.B. 521 was endorsed by all child advocacy groups which appeared before the CJCC as a means of better utilizing existing public and private resources to provide a more coordinated approach for dealing with a full range of juvenile issues.

Major provisions of S.B. 521 would:

- \* Create a Master Planning Commission with membership including cabinet members, Governor's attorney, judges, legislators and public representatives.
- \* Move the reporting authority for the Advisory Commission on Juvenile Offender Programs from SRS to the Master Planning Commission.

Senate Judiciary Committee 3-21-90 pm Attachment II page 1 of 2

-1-

- \* Increase the membership of the Advisory Commission on Juvenile Offender Programs to include Court Services Officers, drug rehabilitations specialists, and representatives from business and labor.
- \* Transfer existing staff for Advisory Commission on Juvenile Offender Programs from SRS to Master Planning Commission.
- \* Develop a longitudinal data base on juveniles determined to be at risk by educators, SRS or the Courts.
- \* Move the reporting authority for the Advisory Committee on Children and Youth from SRS to the Master Planning Commission.
- \* Increase the membership of the Advisory Committee on Children and Youth to include mental health professionals, drug rehabilitation specialists, teachers and school administrators, a psychologist, a registered nurse, clergy, and representatives of business and labor.
- \* Transfer existing staff for Advisory Commission on Children and Youth from SRS to Master Planning Commission.
- \* Increase communication between public and private agencies regarding children at risk.

The major objectives of S.B. 521 are:

- \* To increase inter-agency coordination of programs and policies affecting provisions of education, health care, social services, and job training for juveniles.
- \* To reduce the possible duplication of efforts and the redundancy of programs and paperwork.
- \* To review statutes, agency rules and regulations for conflicts, effectiveness and appropriateness.
- \* To review existing public and private resources committed to juveniles.

The Criminal Justice Coordinating Council strongly supports development of a Master Planning Commission on Juvenile Affairs.

(3-21-90 pm) IL 2/2



## DEPARTMENT OF CORRECTIONS

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Landon State Office Building 900 S.W. Jackson—Suite 400-N Topeka, Kansas 66612-1284 (913) 296-3317

Steven J. Davies, Ph.D. Secretary

Mike Hayden Governor

March 20, 1990

#### TESTIMONY

#### SENATE BILL 526

Concerning juvenile offenders; relating to prosecution as an adult

Senate Bill 526 was introduced at the request of the Criminal Justice Coordinating Council (CJCC). The Council is chaired by the Secretary of Corrections, and it's membership includes the Chief Justice of the Kansas Supreme Court, the Attorney General, the Secretary of Social and Rehabilitation Services, the Chairman of the Kansas Parole Board, the Governor's Chief Legal Counsel, one District Court Judge and four members of the Legislature.

The CJCC held several hearings during the fall and winter of 1989 regarding improvements which could be made to the juvenile system, ranging from children "at risk", to juvenile offenders. S.B. 526 was developed in response to problems with juvenile offenders who commit violent criminal acts, but must, under current law, be released by their 21st birthday.

The major provisions of S.B. 526:

- \* Allows the court to order those who are 14 and 15 years old to stand trial as an adult if charged with an A or B felony.
- \* Requires the court to order those who are 16 or 17 years old to stand trial as an adult if charged with an A or B felony.
- \* Requires SRS to notify the county or district attorney at least 45 days prior to the release of a juvenile whose offense would have constituted an A, B, or C felony.

Senate Judiciary Committee 3-21-90 pm Attachment III page 10/2

-1-

\* Requires the county or district attorney to provide written notice to the victim or the victim's family at least 30 days prior to the release of a juvenile whose offense would have constituted an A, B, or C felony.

Class A felony crimes include first degree murder and aggravated kidnapping. Class B felony crimes include second degree murder, rape, aggravated sodomy, aggravated robbery, kidnapping, aggravated arson, and aggravated battery of a law enforcement officer.

KDOC is aware that S.B. 526 is only one of several bills being considered this legislative session dealing with the issue of violent juvenile offenders. The intent of the CJCC is to improve the services available to this group of offenders, while at the same time improving the level of public safety available by changes in existing statute. Members of the CJCC representing KDOC, SRS, the Parole Board, the Courts and the legislature have expressed their desire to work together to help make those changes.

Terry Gross, President Rodney Symmonds, Vice-President Gene Porter, Sec.-Treasurer James Puntch, Jr., Past President



DIRECTOR

James Flory Randy Hendershot Wade Dixon John Gillett

## Kansas County & District Attorneys Association

827 S. Topeka Ave., 2nd Floor (913) 357-6351 • Topeka, Kansas 66612 • FAX # (913) 357-6352 • EXECUTIVE DIRECTOR • JAMES W. CLARK, CAE

Testimony in Support of

#### SENATE BILL 526

The Kansas County and District Attorneys Association supports Senate Bill 526. While the concept of the juvenile justice system is to protect juveniles, even juvenile offenders, the protection of society should outweigh the protection of the juvenile in cases where the more serious violent offenses are involved.

The removal of 16 and 17 year olds who are charged with an A or B felony from the definition of "juvenile offender"; the addition of a procedure for waiver of juvenile court jurisdiction over 14 and 15 year olds charged with an A or B felony; and the notification by S.R.S. of the release of juveniles adjudicated for A, B or C felonies are significant steps toward restoring or inserting the concern for public safety into the juvenile justice system.

KCDAA would propose an amendment to House Bill 2666, as follows:

On page 5, Line 18, Line 19, Line 42, and Line 43, after the word "state", insert the words " or county".

The effect of such amendment would make it clear that county and district attorneys, who after receiving notification of the release of the juvenile must notify the victim or the victim's family, are also immune from suit for failure to notify.

Senate Judiciary Committee 3-21-90 pm Attachment II page 10/1

BUTLER COUNTY, KANSAS



## OFFICE OF THE COUNTY ATTORNEY

Jail-Judicial Building El Dorado, Kansas 67042 (316) 321-1210

Mike Ward County Attorney

February 2, 1990

Phyllis K. Webster James I. Murfin Deputy County Attorneys

Jim Clark KCDAA 827 S. Topeka Ave. Topeka, KS 66612

> House Bill 2666; Adult prosecution of violent In re:

juvenile offenders

Dear Jim:

I am a strong supporter of this house bill and I have a particular interest in seeing that it is passed. I am presently prosecuting two 15 year old boys for the first degree shotgun slaying of one of the boys father. Both boys have to this point denied the allegations and jury trials are scheduled in each case.

Several years ago I had the unpleasant task of prosecuting a very similar case. That case involved a 14 year old boy and his 15 year old cousin who were charged in connection with the murder of the 14 year olds natural mother and stepfather. The victims in that case were shot at close range with a high powered rifle as they lay asleep in bed. Those two juveniles eventually admitted involvement in these killings and were sentenced to the Youth Center at Topeka, Kansas.

What my experience in these cases is teaching me is that this particular age group is capable of very violent and premeditated crime. Most Adult offenders that I prosecute commit their crimes either under the influence of drugs or alcohol or because of some drug or alcohol related problem. By contrast, these kids seem capable of extremely cruel acts without the influence or prompting of either drugs or alcohol. It is sad to say, but I view this particular age group as one of the most unpredictable and potentially violent age groups among our criminal offenders.

I strongly support House Bill 2666. In my opinion it is long overdue. The communities of our state and our District Judges and our prosecutors need to have the leverage to treat 14 and 15 year old killers as adult offenders if the circumstances of their crimes

Senate Judiciary Committee 3-21-90 pm Attachment I page 1 of 2

m Clark CDAA 827 S. Topeka Ave. Topeka, KS 66612 Re: House Bill 2666 Date: February 2, 1990 Page 2 -

justify such treatment. Under the present statutory scheme, these juveniles are placed at a State youth center and cannot be held there beyond their 21st birthday. They can of course be released prior to that time if the authorities conclude that early release is appropriate.

This result in these kinds of cases is one that no one is happy with. The victims are outraged when they find that the person responsible for killing their child or spouse will only be held until his or her 21st birthday and then released. I am hopeful that this legislature will take a very hard look at this situation and will choose to remedy it while the time is right. I would be happy to testify in support of this bill should you feel that such testimony would be of assistance. If so, just let me know.

Very truly yours,

MIKE WARD

MW/mm

cc: Governor Mike Hayden

Frank Gaines Kenneth King Kenneth Green

> (3-21-90 pm) V 2/2.



## STATE OF KANSAS

## OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN ATTORNEY GENERAL MAIN PHONE: (913) 296-2215 CONSUMER PROTECTION: 296-3751 TELECOPIER: 296-6296

TESTIMONY OF
DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN
ON BEHALF OF ATTORNEY GENERAL ROBERT T. STEPHAN
BEFORE THE SENATE JUDICIARY
MARCH 20, 1990
RE: SENATE BILL 521

## MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Attorney General Stephan and I encourage your support for this legislation, as we must find an avenue to develop appropriate treatment facilities in our state for juvenile offenders.

As a fledgling member of the advisory commission on juvenile offender programs, I have become aware of the myriad of problems and questions facing those responsible for juvenile detention, but quite frankly, the answers are not so apparent. Our legislature is going to have to recognize that this is a concern of great importance that will require extensive research and planning over a period of time before the issues to be addressed can be resolved.

Senate Judiciary Committee 3-21-90 pm Attachment II page 1 of 2 This is an area that concerns us all. Certainly I am not an expert on juvenile law or the the rehabilitation of juvenile offenders, however it is obvious that Senate Bill 521 will permit the input of professionals from many sides of the problem in an effort to address all of the concerns of society which surface in the process of our attempt to resolve the problem of how to properly detain our juvenile offenders. This is surely a sound approach to a known concern.

(3-21-90 pm) VI 2/2



#### STATE OF KANSAS

#### OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN ATTORNEY GENERAL

TESTIMONY OF

MAIN PHONE: (913) 296-2215 CONSUMER PROTECTION: 296-3751 TELECOPIER: 296-6296

DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN
ON BEHALF OF ATTORNEY GENERAL ROBERT T. STEPHAN
BEFORE THE SENATE JUDICIARY
MARCH 20, 1990
RE: SENATE BILL 526

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I attach to my statement, a copy of testimony given by Attorney General Stephan in support of House Bill 2666, which is identical to the measure you are considering.

You will notice that this measure is not dealing with children who are in need of supervision, but criminals who have committed the most heinous acts defined in our criminal code.

I ask that you review the information in General Stephan's statement, and favorably consider this measure.

Senate Judiciary Committee 3-21-90 pm Attachment III page 1014



STATE OF KANSAS

## OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN ATTORNEY GENERAL

TESTIMONY OF
ATTORNEY GENERAL ROBERT T. STEPHAN
TO THE COMMITTEE ON JUDICIARY
HOUSE BILL 2666
February 7, 1990

MAIN PHONE: (913) 296-2215 CONSUMER PROTECTION: 296-3751 TELECOPIER: 296-6296

Chairman and Members of the Committee:

One of the most important aspects of our constitutional rights is the right to life, liberty and the pursuit of happiness. The action of government in passing protective laws is legitimized under this umbrella. House Bill 2666 certainly helps to fulfill this noble objective.

House Bill 2666 is not a bill that oppresses innocent or unsuspecting children, but deals realistically with dangerous persons who are among the worst predators on earth. An artificial age restriction such as we have now does an injustice to our obligation to protect the public and unfairly portrays our system of juvenile justice.

It is time to stop calling 14, 15, 16 and 17 year olds who commit aggravated robbery, rape and murder, children in need of juvenile protection. It is their victims and the families of their victims who cry out for protection and ask that measures be taken to protect them and others from their violent crimes.

Presently K.S.A. 38-1602 excludes from treatment as a juvenile, a person of 14 or more years of age who commits a traffic offense. That same statute generally defines a person of 14 or more years who commits aggravated robbery, rape or murder as a juvenile. What kind of convoluted thinking is this? How can we say you are old enough to answer as an adult if you get a traffic ticket, but you are protected if you put a gun to someone's head and pull the trigger. Enough is enough. It is time to enact a law that conforms to the realities of our times.

House Bill 2666 rightfully provides for the automatic prosecution as an adult of any person 16 years of age or over who is charged with a class A or B felony; it provides that a court may authorize prosecution as an adult of a 14 or 15 year old who commits class A or B felonies.

JII 2/4

This bill is a measured reaction to atrocities committed by juveniles. Other states have lowered the juvenile age altogether. States with a lower juvenile age than Kansas include:

Connecticut	Up to 16 years
Georgia	Up to 17 years
Illinois	Up to 17 years
Louisiana	Up to 17 years
Massachusetts	Up to 17 years
Missouri	Up to 17 years
New York	Up to 16 years
North Carolina	Up to 16 years
Oklahoma	Up to 16 years (males)
South Carolina	Up to 17 years
Texas	Up to 17 years
Vermont	Up to 16 years

It is appropriate that you understand specifically those crimes for which this bill would mandate and authorize trial as an adult. Class A and B felonies include:

## <u>Class A</u>

- 21-3401 Murder in the first degree
- 21-3421 Aggravated kidnapping
- 21-3433 Aircraft piracy
- 21-3801 Treason
- 65-4127a Possession and distribution of opiates, opium or narcotic drugs; third and all subsequent convictions

## <u>Class B</u>

- 21-3402 Murder in the second degree
- 21-3502 Rape
- 21-3420 Kidnapping
- 21-3427 Aggravated robbery
- 21-3504 Aggravated indecent liberties with a child
- 21-3506 Aggravated criminal sodomy
- 21-3415 Aggravated battery against a law enforcement officer
- 21-3719 Aggravated arson
- 65-4127a Possession and distribution of opiates, opium or narcotic drugs; second conviction
- 21-3301 Attempt of class A felony

House Bill 2666 also provides for notification of the victim or the victims family on release of a juvenile whose offense would have constituted an A, B or C felony. The fact that an individual is in the juvenile system should not mean that those against whom their offense was directed should not be aware of their release. Victims and families of victims deserve this consideration from the state.

(3-21-90 pm) VII 3/4 This bill has been endorsed by the Criminal Justice Coordinating Council. I support and urge the passage of House Bill 2666.

(3-21-90 pm) III 4/4



#### STATE OF KANSAS

## OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215 CONSUMER PROTECTION: 296-3751 TELECOPIER: 296-6296

TESTIMONY OF
DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN
ON BEHALF OF ATTORNEY GENERAL ROBERT T. STEPHAN
BEFORE THE SENATE JUDICIARY
MARCH 20, 1990
RE: SENATE BILL 741

## MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

The Attorney General would like to voice support of the principles espoused by Senate Bill 741, in that we have long sought a procedure for protecting society from the violent juvenile offender, rather than merely turning them loose on society at the age of 21, when there is ample evidence that the offender continues to be a threat.

We have not examined the potential problems in implementation of such a plan, and would defer to those who are trained in the rehabilitation of such offenders to determine if violent offenders should be housed in a location other than the youth centers, subsequent to attaining the age of majority.

Senate Judiciary Committee 3-21-90 pm Attachment IIII page 1 of 2 We merely ask that you seriously consider legislation which will serve to protect society from the injustice that is followed at this time, and requires the release of the violent individuals merely because of their age, with no consideration of length of incarceration or chances of rehabilitation.

There must be laws which restrict the release of those proven to be violent, in an effort to protect society.

(3-21-90 pm)



# KANSAS COUNCIL ON CRIME AND DELINQUENCY

ADVISOR: Karl Menninger, M.D.

#### **BOARD OF** DIRECTORS

Donald W. Anderson. Ph.D. President 1501 E. 5th Winfield, KS 67156 (316) 221-4727 Home (316) 221-4150 Office Professor of Psychology Southwestern College

Frank McCoy Vice President President Elect Director, Riles County Community Corrections

Therese Bangert, SCL Secretary Catholic Chaplain. SRDC and Topeka Pre-Release Center

Eugene Rasmussen Treasurer United Methodist Pastor

Rosalys Rieger Newsletter Editor Board member, Riley County Community Corrections

Robert J. Achor Forensic Social Worker, State Security Hospital, Larned

Bill Arnold Associate Professor of Sociology, Kansas University

Corrections Volunteer, Topeka

Diane Dollar Professor of Art, Kansas State University

Becky Matin-Johns President/Project Director, Kansas City Outside Connection

George A. McCall Pastor, First Presbyterian Church. Wichita

Connie McWilliams Sociology Student, Fort Hays State University

Richard Nev Sedgarck County Public Defender

Barbara Schmidt Director . Victim Offender Mediation Services, Wichita

Quaker Prison Ministry. Emboria

March 20, 1990

Testimony to Senate Judiciary SB 521

I come to speak in favor of SB 521 the concept of the Juvenile Planning (ommission as an organizational tool that can look toward prevention methods and techniques.

I speak a concern that the commission have a sufficient number of people who are in the "fox holes" of juvenile issues. Some people not on the list that I put before you for consideration are:

> Someone from CASA -Court Appointed Special Advocate Foster Parents An ex-offender (I feel Secretary Davies could advise to such an appointment) Representation of Minority Communities SRS is currently doing a report on the disproportionate incarceration of minority youth in Kansas. It was to be finalized sometime this month. Juvenile Judges

Finally I want to stress the importance of this commission being adequately funded like unto the Sentencing Commission from SB 50 last session.

PEACE to YOU,

ter Therese Bangert Sister Therese Bangert

118 NV Fillmore Topeka, Kansas 66606

913-234-2542

Senate Judiciary Committee 3-21-90 pm Attachment IX page 10/2



## KANSAS COUNCIL ON CRIME AND DELINQUENCY

ADVISOR: Karl Menninger, M.D.

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Therese Bangert, SCL Secretary Catholic Chaplain, SRDC and Topeka Pre-Release Center

Eugene Rasmussen Treasurer United Methodist Pastor

Rosalys Rieger Newsletter Editor Board member, Riley County Community Corrections

Robert J. Achor Forensic Social Worker, State Security Hospital, Larned

Bill Arnold

Associate Professor of
Sociology, Kansas University

Edwana Collins Corrections Volunteer, Topeka

Diane Dollar

Professor of Art,

Kansas State University

Becky Matin-Johns

President/Project Director,

Kansas City Outside Connection

George A. McCall

Pastor, First Presbyterian Church,
Wichita

Connie McWilliams Sociology Student, Fort Hays State University

Richard Ney Sedgwick County Public Defender

Barbara Schmidt
Director, Victim Offender
Mediation Services, Wichita

Anna Warnken

Quaker Prison Ministry,

Emporia

Testimony to Senate Judiciary SB 526

March 20, 1990 'First Day of Spring)

I stand with those in this room who have a concern about violence in our State and the violent acts coming from our young people.

I challenge the concept that lowering the age and placing these juvenile offenders in DC is a way to decrease such violence.

My concerns:

My understanding of the fence being built around Y(AT is to make that a facility with high security. Such security gives SRS an increased ability to work with the offender in the setting geared to juveniles.

I believe that considering placing 14 year olds in the adult prison population is a denial of the environment that our prisons are. I encourage you, if possible, to spend an hour sometime with the Stop Violence group at Topeka Correctional Facility and hear their concerns about children being put into the prisons.

I strongly support a law that would provide in certain juvenile cases a review at 21 years of age to determine the offender's ability to function safely in society. If at such time there is a danger to self and others, then custody could be transferred to DOC.

PEACE to YOU,

Sister Therese Bangert

Sister Therese Bangert 118 NW Fillmore Topeka, Ks. 66606 913-234-2542

> (3-21-90 pm) IX 2/2



## STATE OF KANSAS

MIKE HAYDEN, GOVERNOR

## CHILDREN AND YOUTH ADVISORY COMMITTEE

SMITH-WILSON BLDG. 300 S.W. OAKLEY TOPEKA, KANSAS 66606-1898

(913) 296-2017

KANS-A-N 561-2017

## Testimony Before the Senate Judiciary Committee Senator Wint Winter, Chairman

SENATE BILL NO. 521 March 20, 1990

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR THE OPPORTUNITY TO TESTIFY TODAY ON THE PROPOSED MASTER PLANNING COMMISION FOR JUVENILE AFFAIRS. MY NAME IS DOUG BOWMAN, AND I AM HERE ON BEHALF OF THE CHILDREN AND YOUTH ADVISORY COMMITTEE.

WE HAVE SEVERAL CONCERNS WITH THE BILL. OUR FIRST CONCERN IS THAT THE SIZE OF THE CHILDREN AND YOUTH ADVISORY COMMITTEE WOULD BE DOUBLED FROM ITS CURRENT 14 MEMBERS. THIS ENLARGEMENT WOULD MAKE IT MORE DIFFICULT TO MANAGE OUR TASKS AND ACCOMPLISH OUR GOALS.

WE RECOGNIZE THAT THERE IS A NEED FOR BETTER COORDINATION AND COMMUNICATION BETWEEN OUR COMMITTEE AND THE ADVISORY COMMISSION ON JUVENILE OFFENDER PROGRAMS. WE BELIEVE THAT THIS CAN BE ACCOMPLISHED WITH GREATER EFFORTS BETWEEN THE TWO EXISTING GROUPS. WORK HAS BEGUN ON THIS, ALREADY. WE ALSO QUESTION THE NEED FOR AN ADDITIONAL LAYER OF ADMINISTRATION BETWEEN THE TWO EXISTING COMMITTEES AND THOSE TO WHOM WE GIVE OUR RECOMMENDATIONS.

THERE IS SOME QUESTION AS TO WHAT WOULD BECOME OF THE KANSAS FAMILY AND CHILDREN'S TRUST FUND. WOULD THESE FUNDS STILL BE GRANTED BY THE CHILDREN AND YOUTH ADVISORY COMMITTEE? IF SO, THIS IS NOT SPELLED OUT IN THE CURRENT BILL.

IN CLOSING, I WOULD LIKE TO SUGGEST THAT SENATE BILL #521 RAISES SOME INTERESTING POSSIBILITIES. IN ORDER TO MORE CAREFULLY ANALYZE THESE CHANGES, THE CHILDREN AND YOUTH ADVISORY COMMITTEE WOULD RECOMMEND THAT THIS BILL BE REFERRED TO A LEGISLATIVE INTERIM STUDY. THANK YOU.

Senate Judiciary Committee 3-21-90 pm Attachment X page 1011



## Kansas Child Abuse **Prevention Council**

715 West 10th Street Topeka, Kansas 66612 (913) 354-7738

140 N. Hydraulic, Suite 700 Wichita, Kansas 67214 (316) 262-8434

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## EXECUTIVE DIRECTOR James McHenry, Ph.D.

## TESTIMONY

## SENATE JUDICIARY COMMITTEE SENATE BILL 742

Senate Bill 742 will help our state resolve a long standing problem, that of the removal of juveniles from adult jails. While we all recognize the primacy of protecting the general population from dangerous criminals, the fact is that the vast majority of the 1225 juveniles held in adult jails, in Kansas in 1989, did not pose that kind of threat public safety. In fact, the majority had committed status offenses or misdeameanor crimes.

Senate Bill 742 does not prohibit holding juveniles accused of serious crimes in jail. bill allows those juveniles to be held in jail upon whom waivers to adult court have been filed, those charge with aggravated juvenile delinquency, or those charged under the three strikes provision. Pre-adjudicated juvenile offenders could also be held for up to six hours with sight and sound separation for purposes of processing, and under other conditions pre-adjudicated juveniles could be held for up to 24 hours.

What this bill does do is recognize that if juveniles are to be held in adult jails they must "Special Solicitude". This right of be afforded children has been consistently maintained by the federal courts. "Special Solicitude" as defined by the courts in these cases includes access to such services as counseling, appropriate education, recreation, and the right to sight separation from adult prisoners while not being confined in isolation. It is clear that few if any county jails in Kansas can provide or insure juveniles these rights.

As a practical issue juveniles in jails cause management problems for jailers who have neither the special training nor the access to the types of services required by juveniles. This has led increasingly to lawsuits in which officials have been held liable for damages inflicted on a youth held in an adult jail.

At the same time we recognize that we can not insure that children's special requirements can be met in adult jails, we must also recognize that we

Senate Judiciary Committee 3-21-90 dm Attackment XI page 1012

are placing these children at risk. Juveniles in adult jails are either exposed to adult inmates, which can result in abuse, or isolated from other inmates, which can result in severe stress and self destructive actions. Youths in jail commit suicide at a rate five times that of children in society, and eight times that for children in juvenile detention facilities.

Alternatives to jailing juveniles have been developed across KCAPC is proud of the efforts that are on-going in the state. Kansas toward this end. Intake services which provide law enforcement alternatives to placing a child in jail have been developed in nine counties across the state. Attendant care facilities have already been developed in eighteen counties and are in the process of being expanded to an additional 24 counties. Counties without juvenile detention centers can receive partial reimbursement for transportation costs to detention centers. One new juvenile detention center has opened this past year with another coming on line this Spring. To meet the additional needs for detention beds in rural Kansas, efforts are underway with 80 develop cooperative regional detention/shelter counties to facilities.

KCAPC has supported and continues to believe that our State's participation in the Federal Juvenile Justice and Delinquency Prevention Act is important for the children of Kansas. Without passage of a jail removal bill, Kansas will lose its compliance with the Federal Act. This will mean a loss of nearly \$500,000 in Federal assistance that has been used to help create some of the alternatives to jail removal we now have in place. We see this as a serious loss for the Juvenile Justice system in Kansas.

While many reasons are advanced for jailing juveniles, they invariably break down under careful examination. The bottom line is that jailing juveniles hurts them in many ways.

Melvin Maddocks, a staff writer for the <u>Christian Science</u> <u>Monitor</u>, summed up in the following words:

"...the ultimate test of a civilization is not the power of its armies nor the size of its gross national product but the condition of its children. If they flower, a society deserves to be described as flowering. At the least, they are owed food, clothing, and a shelter. If they are corrupted, if they suffer, if they die from abuse or neglect, an atrocity has been committed for which no other achievement can atone."

Submitted by,

Dr. James McHenry Executive Director

March 20, 1990

(3-21-90am) XI 2/2

# HILDREN'S COALITION

P.O. Box 5314 Topeka, Kansas 66605 913-232-0543

## Testimony

## Senate Bill 742

The Children's Coalition appreciates this opportunity to offer support for Senate Bill 742.

As a coalition, we believe that Kansas has an obligation to the children of this State to provide safe, and when necessary, secure alternatives to holding juveniles in adult jails. We also believe that it is in the best interest of children for Kansas to comply with the mandates of the Federal Juvenile Justice and Delinquency Prevention Act.

In the past couple of years Kansas has made great strides in creating a variety of alternatives to not holding juveniles in adult jails. These include;

\* Nine counties have developed juvenile intake programs to assist law enforcement with alternatives to placing youth in adult jails.

Eighteen counties now have attendant care programs, and another twenty-four counties are in the process of developing such services.

\* A study is underway which will seek to determine the detention needs of the state on a regional basis and then work with the counties to develop cooperative regional plans.

\* One new juvenile detention center opened this past

year and another will be coming on line this Spring.

Twelve hundred and twenty five children were held in adult jails in Kansas in 1989. National statistics tell us that children in adult jails are at five times greater risk of suicide than children in the general population. This is a risk we can not afford to take with our children.

Senate Judiciary Committee 3-21-90 am Attachment XII page 1 of 2

Non-secure alternatives are being developed across the state because they make good sense for children as well as good economic sense. With the passage of KAR 79-4803 in 1986 a portion of the gaming revenues were directed toward the construction of juvenile detention facilities. With this funding resource and the other alternatives which are rapidly being put in place it no longer makes sense for us not to adopt the sort of jail removal legislation outlined in Senate Bill 742.

Submitted by Bruce Linhos For The Children's Coalition March 20, 1990

> (3-21-90 am) XII 2/2

## SENATE BILL #742

## Committee on Judiciary

Senator Winter Chairman

Mr. Chairman and members of the Committee. Thank you for the opportunity to testify in support of Senate Bill 742. Jail removal section.

The JJDP Act calls for the end of the practice of placing juveniles in adult jails. At different times in past sessions legislation to comply has been introduced. But for various reasons has not been enacted. Not the least of these reasons has been the lack of alternatives. However, because of the growing risk associated with placing juveniles in jails Judges, Sheriffs, and commissioners have agreed to reduce the use of jails or in some cases have quit using the jail altogether.

In the past year Westridge Group has provided consulting services and technical assistance to numerous rural

Senate Judiciary Committee 3-21-90 pm Attachment XIII page 1 of 4 communities. Our experience and perception is that they know there is a need that must be filled. And I suggest to the committee that now is the time to enact this legislation.

There is a growing need and interest by these communities to provided facilities and programs for juvenile offenders and children in need of care. Although, county officials are not exactly elated about the idea of such state requirements there is a consensus that something must be done. The conscious raising is in a large part due to the efforts of the JJDPA Advisory committee and the staff of SRS assigned to develop in cooperation with the courts and local governments alternative programs for juveniles.

Many of these communities have attempted to determine what they need in the way of services and had started the process. One such, group of communities have formed a coalition and developed local agreements to deal with other issues and are ready to use the coalition to develop a region facility for juveniles. They are ready for technical assistance to make sure what they develop, can be used.

In an attempt to insure that resource expended by these communities are geared toward the services that meet the need

(3-21-90 pm) XIII 2/4 of their juvenile population, SRS and Westridge Group through the JJDPA Advisory Commission have developed a plan to coordinate the needed demographic study and preliminary planning necessary to accomplish the following:

## **NEEDS ASSESSMENT:**

- 1. Data Collection
- 2. Demographic date collection and analysis
- 3. Analyze data
- 4. Survey Existing Community Services
- 5. Identify Area of Service Participants
- 6. Determine Areas of Service

## PRELIMINARY PLANNING:

- 1. Present and Future Bedspace Needs
- State Law, Agency Rules and Administrative Regulations
- 3. Financing Options
- Commitments with projected service area jurisdictions
- 5. Site Analysis/Feasibility of Site Selection
- 6. Utilities
- 7. Site Selection Recommendation
- 8. Facility Cost estimate and conceptual sit plan
- 9. Public Meetings and Community Issues

(3-21-90 pm) XIII 3/4

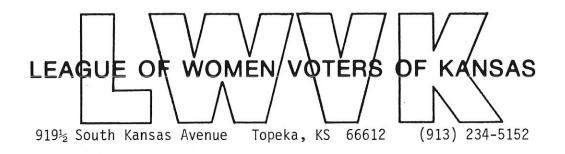
- 10. Recommendations for Programs, Staffing Patterns, and First Year Operating Budget
- 11. Discussion of Public vs. Private

Westridge is presently under contract to Crawford County to provide preliminary planning for a Southeast Kansas regional detention facility. Westridge has completed 80% of the planning and next week will begin to seek inter-local agreements between the 12 counties targeted for this region.

This is a conserted and coordinated effort by SRS and the commission. To provide needed guidance and technical assistance that will insure that appropriate alternatives are developed and facilities constructed will meet standards, licensing requirements, and the present demand and the need for the future. To date, these efforts have been warmly welcomed by the communities needing the services and they have assured us of their cooperation.

Mr. Chairman, members of the committee. I urge you to consider these efforts in you deliberation on Senate Bill 742 and recommend passage of this legislation.

(3-21-90 pm) XIII 4/4



March 21, 1990

STATEMENT TO THE SENATE COMMITTEE ON JUDICIARY RE: SB 742.

Chairman Winter and Members of the Committee:

I am Ann Hebberger speaking for the League of Women Voters of Kansas in favor of  $\underline{SB}$  742.

The League has been testifying on the removal of juveniles from jails since 1974 when the federal Juvenile Justice and Delinquency Prevention Act became law.

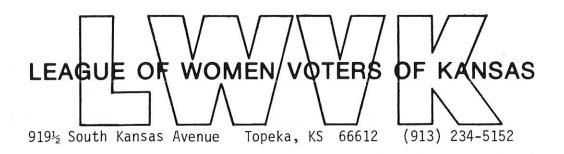
The process since that time has been like the chicken and the egg---we have to keep kids in jails because we have no place to keep them. All these years there has been money provided by the Juvenile Justice and Delinquency Prevention Act to find out how to put kids someplace other than jail.

The state has taken the federal funds year after year, and has done as little as possible to comply with the guidelines.

We appreciate the fact that the Senate has voted in favor of juveniles not being detained in adult jails, and we think it is time for the whole legislature to honor this committment.

Please vote yes for SB 742. Thank you for your consideration.

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March 21, 1990

STATEMENT TO THE SENATE COMMITTEE ON JUDICIARY RE: SB 526 and SB 521.

Chairman Winter and Members of the Committee:

I am Ann Hebberger speaking for the League of Women Voters of Kansas.

The League of Women Voters of Kansas is opposed to  $\underline{SB}$  526 because we believe that juvenile refers to all children under the age of 18, and that all juveniles who come before the Court for allegedly committing a crime should be treated as juveniles and not as adults.

We believe that lowering the age to 14 or 15, for whatever reason, is a knee-jerk reaction to one particular case. Because of the confidentiality law involved, we don't know the merits of the case, nor should anyone else. We think you would agree, however, that very few children gun down their family without a reason or underlying cause.

There was a Juvenile Offender Policy Conference September 7-8, 1989, in Topeka. Over 200 people took an active part in the two day conference. Representatives from the legislature, probation, courts, law enforcement, schools, service providers, volunteers like myself, and other attended. Of all the policy recommendation for improving the non-system of juvenile justice proposed, none mentioned lowering the age of juveniles. The recommended policies instead indicate a rehabilitative mode rather than punitive.

Many attending the conference mentioned that 16 and 17-year-olds want and like to go to "adult" court because many are put on probation or in community corrections.

According to SRS testimony, there are 13 or 14 such juveniles that fit into the category described in SB 526. We really do not understand why it is so important to lower the juvenile age to 14, 15, 16 or 17, when most of the children would still receive the same "treatment" at a youth center.

A point worth mentioning is the cost of jury trials connected with adult due process if such a bill passes.

Another issue addressed in  $\underline{SB}$  526 is victim notification. We certainly are in favor of providing such notice through the prosecutors' offices.

Rather than lower the age, we support conceptual changes in the law as stated in <u>SB 521</u>. The League believes that however the concept is finalized, each juvenile confined over the age of 21 should receive annual judicial review to determine

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## Page 2

further incarceration. If the public wants some juveniles to receive more time, we believe that extending it in this manner is a better solution.

Please vote no on  $\underline{SB}$  526 and yes on  $\underline{SB}$  521. Thank you for your consideration.

(3-21-90 pm). XV 3/2