

Approved: 4-28-93
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Jerry Moran at 10:05 a.m. on March 23, 1993 in Room 514-S of the Capitol.

All members were present except: Senators Vancrum and Rock (both excused)

Committee staff present: Michael Heim, Legislative Research Department
Gordon Self, Revisor of Statutes
Sue Krische, Committee Secretary

Conferees appearing before the committee:

Kyle Smith, KBI
Teri Buek, American Red Cross

HB 2412 - Emergency assistance at scene of accident.

Kyle Smith, KBI, explained that HB 2412 would amend the Good Samaritan statute as it relates to the certificates of training in first aid (Attachment 1). Under current law, for immunity purposes, a person must be certified by the American Red Cross, American Heart Association, or the Bureau of Mines. HB 2412 adds the National Safety Council and instructor coordinators of emergency medical services as entities that can provide certification.

Teri Buek, American Red Cross, appeared in support of HB 2412 but expressed concern that some training programs do not provide adequate follow up to assure quality and consistency (Attachment 2). Ms. Buek cited the distinction between attending a presentation and becoming certified, noting that at a presentation no skills are practiced. She does not feel this adequately prepares a person to respond in an emergency situation.

HB 2450 - Controlled substances; possession with intent to deliver or distribute.

Kyle Smith, KBI, testified in favor of HB 2450 which changes the language on unlawful acts regarding drugs to include, in addition to the prohibition against selling, offer for sale, or have in a person's possession with intent to sell, deliver or distribute the drugs in question (Attachment 3). Mr. Smith asked that "public parks" be reinserted in the language of the bill. The House Committee removed public parks so that the prohibition in the law reverts back to schools only.

Brent Bengtson, Governor's Office of Drug Abuse Programs, submitted written testimony in support of drug-free parks in HB 2450 (Attachment 4). Ralph D. Hays, Chief of Police, Johnson County Park and Recreation District, and Laura Kelly, Executive Director, Kansas Recreation and Park Association, submitted written testimony in support of adding public parks to the drug free zone provision in HB 2450 (Attachments 5 and 6). Senator Bond moved to amend HB 2450 to return the bill to the original language including public parks. Senator Feleciano seconded. Motion carried. Senator Bond moved to further amend HB 2450 to add the provisions of SB 289 into HB 2450. Senator Ranson seconded. Motion carried. Senator Bond moved to recommend HB 2450, as amended, favorably for passage. Senator Ranson seconded. Motion carried.

Senator Bond moved to recommend HB 2412 favorably for passage. Senator Parkinson seconded. Senator Petty made a substitute motion to delete the words "or approved" on page 2, line 11 of HB 2412 and to add the language "professional level training by the National Safety Council." Senator Oleen seconded. Substitute motion failed. Senator Oleen made a substitute motion to table HB 2412. Senator Petty seconded. Substitute motion failed. Back on the original motion to pass HB 2412 favorably, motion carried.

Turning to final action on bills previously heard, Ron Smith, Kansas Bar Association, explained that HB 2460 amends the Uniform Limited Partnership Act by simplifying the requirements of a certificate of limited partnership. Under the bill it would be possible to take advantage of statutory provisions of the act by putting substantive provisions in a written agreement rather than in the certificate. Mr. Smith emphasized that the bill is a cleanup of the statute. Senator Feleciano expressed concern that the Committee is often told an amendment or bill is cleanup and not a change in policy, when that is not always strictly the case. Senator

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:05 a.m. on March 23, 1993.

Ranson moved that HB 2460 be recommended favorably for passage and placed on the Consent Calendar. Senator Parkinson seconded. Motion carried. Senator Feleciano is recorded as voting "no."

Senator Emert moved the Committee reconsider its action on HB 2355 at yesterday's meeting. Senator Feleciano seconded. Motion carried. Back on the motion to recommend HB 2355, as amended, Senator Emert made a substitute motion to delete the Department of Revenue amendments to HB 2355. Senator Feleciano seconded. Senator Bond made a substitute motion to table HB 2355. Senator Martin seconded. Substitute motion failed. On Senator Emert's motion to amend, the motion carried. Senator Brady made a motion to amend HB 2355 by adding the .08 BAC provision to the bill. Senator Harris seconded. Motion failed. Senator Feleciano made a motion to recommend HB 2355, as amended, favorably for passage. Senator Emert seconded. Motion carried.

Senator Bond explained that HB 2160 allows for a waiver of an adoption assessment and report in a grandparent adoption. The Family Law subcommittee recommends passage of the bill. Senator Bond moved that HB 2160 be recommended favorably for passage. Senator Emert seconded. Motion carried.

Senator Bond noted that HB 2101 was recommended by the Judicial Council and provides that a child may inherit from birth parents in the case of a termination of parental rights. However, birth parents cannot inherit from or through a child in termination or consent or relinquishment to adoption situations. According to the Judicial Council, the bill should clear up an inconsistency regarding the inheritance rights of children. Senator Bond moved to amend HB 2101 by moving lines 8, 9, and 10 on page 4 of the bill from subsection e to subsection d and to delete Section 2 of HB 2101 and to recommend HB 2101, as amended, favorably for passage. Senator Martin seconded. Motion carried.

Senator Bond stated that HB 2298 would allow the court to terminate parental rights to a child born as a result of a felony during which sexual intercourse occurred whether the offender is an adult or a juvenile. Senator Bond moved that HB 2298 be recommended favorably for passage. Senator Parkinson seconded. Motion carried.

Senator Ranson explained that SB 237 would raise deprivation of property that is a motor vehicle from a misdemeanor to a Class E felony. Senator Ranson moved that SB 237 be recommended favorably for passage. Senator Feleciano seconded. Senator Ranson withdrew her motion with the permission of the second. Senator Feleciano moved that the Committee reconsider its action on HB 2450 today. Senator Ranson seconded. Motion carried. Senator Ranson moved to amend the provisions of SB 237 into HB 2450. Senator Feleciano seconded. Motion carried. Senator Feleciano moved to recommend HB 2450, as amended, favorably for passage. Senator Bond seconded. Motion carried. Senator Feleciano moved to recommend SB 237 unfavorably. Senator Bond seconded. Motion carried.

Senator Bond moved that the minutes of February 24, 25 (two meetings), 26, 1993 and March 4 and 9, 1993 be approved as presented. Senator Ranson seconded. Motion carried.

Chairman Moran thanked the members for their work on the Committee this session. The meeting was adjourned at 11:00 a.m. The next meeting is not scheduled at this time.



ROBERT B. DAVENPORT
DIRECTOR

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(913) 232-6000



ROBERT T. STEPHAN
ATTORNEY GENERAL

TESTIMONY
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
BEFORE THE SENATE JUDICIARY COMMITTEE
REGARDING HOUSE BILL 2412
MARCH 22, 1993

Mr. Chairman and Members of the Committee:

I am here today to testify as a proponent for passage of House Bill 2412. The Kansas Bureau of Investigation (KBI) requested this bill on behalf of law enforcement in Kansas to clarify what is commonly called the Good Samaritan Statute and its application to people trained in first aid.

As it currently reads, a person rendering emergency first aid must hold a valid certificate by the American Red Cross, American Heart Association or the Bureau of Mines of the Department of the Interior before the limited immunity granted by the statute comes into play.

It came to our attention that the Kansas Law Enforcement Training Center (KLETC) as well as the KBI were not using first aid programs by any of these three organizations so this bill was requested. Currently, the KLETC is having its first aid instruction provided by an E.M.S. instructor/coordinator at the Hutchinson Community College. The KBI's training is through the National Safety Council. This bill was requested to broaden the application of this bill to include training currently being utilized.

I would ask the committee to recommend House Bill 2412 for passage as encouraging people to render first aid according to their training and not having to worry as to whether they are covered by this statute.

I would be happy to answer any questions.

#088

ST
3-23-93
Attachment 1



American Red Cross

Kansas Capital
Area Chapter
1221 SW 17th Street
Topeka, KS 66604-2899
(913) 234-0568

March 23, 1993

Dear Senator Jerry Moran and members of the Judiciary Committee:

We wish to express support of House Bill 2412, an act concerning public health; relating to assistance at the scene of an accident. However, we want to express concern that not all training programs maintain adequate support systems in place to assure quality, consistent programs.

The Red Cross takes great pride in its certification courses which prepares individuals to respond at the scene of an accident in a reasonable and prudent manner. In order to be certified a person has been exposed to and demonstrated the ability and knowledge to perform necessary care of an injured or ill person.

Red Cross courses are developed and reviewed utilizing input from numerous national organizations such as the American College of Emergency Physicians, National Association of Emergency Medical Technicians, and the Institute of Medicine of the National Academy of Science, to name a few. Red Cross provides consistent, uniform programs to assure quality control, and instructor development and evaluation. Our first aid certification courses are recognized by OSHA for meeting workplace first aid training requirements.

Currently, many companies and individuals are entering the training field in the for-profit field, offering first aid training. Some organizations have developed programs that are approved but lack any followup or involvement in training and any nationally recognized certification. Many times the hours of instruction may not prepare the rescuer appropriate response training.

Good Samaritan laws were developed to encourage people to help others in emergency situations. They require that the "Good Samaritan" use common sense and a reasonable level of skill, not to exceed the scope of the individuals training in emergency situations. They assume each person would do his or her best to save a life or prevent further injury.

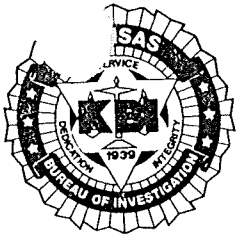
The Red Cross believes in Good Samaritan laws but feels they should clearly state necessary minimum requirements to insure emergency care rendered at the scene of an accident to a victim is given in a reasonable and prudent manner by a responder guided by a reliable training base.

Sincerely,
Teri Lee Buek
Teri Lee Buek
State Liaison



A United Way Agency

5J
3-23-93
Attachment 2



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TESTIMONY
FLOYD BRADLEY, SPECIAL AGENT SUPERVISOR
KANSAS BUREAU OF INVESTIGATION
BEFORE THE HOUSE JUDICIARY COMMITTEE
IN SUPPORT OF HOUSE BILL 2450
FEBRUARY 17, 1993

Mr. Chairman and Members of the Committee:

My name is Floyd Bradley. I am the undercover narcotics supervisor for the Kansas Bureau of Investigation (KBI). I have been involved in several hundred narcotic investigations during my 28 year law enforcement career.

Two years ago the legislature passed a much needed law enhancing the penalties for distributing drugs within 1,000 feet of a school. Today we are here to ask that the legislature expand that law to include enhancing the penalty for distributing drugs within 1,000 feet of a public park.

Several times a year my undercover agents will purchase illegal substances in public parks. Drug dealers today are more likely to use public parks in order to facilitate their drug activities. Counter surveillance is more easily used in parks as a dealer can observe police surveillance because parks are normally more open. Also, children are less likely to report suspicious activity. 30% of the drugs buys made by the KBI undercover agents are made in parks.

Drug dealers today have become more violent and often carry weapons. They are more likely to become more aggressive with their weapons if they are in the open, in an attempt to effect their escape. Therefore, children in a public park are at risk.

Drug users tend to congregate in parks to use drugs. Children are naturally curious and are likely to accept drugs from people who are around them in a play area.

I would be happy to answer any questions.

#096

SJ
3-23-93
Attachment 3

STATE OF KANSAS



Joan Finney, Governor

GOVERNOR'S OFFICE
OF DRUG ABUSE PROGRAMS

112 Landon State Office Building
900 Jackson
Topeka, Kansas 66612-1220
(913) 296-2584
Fax (913) 296-0043

MEMORANDUM

TO: Senator Jerry Moran, Chairman
Senate Judiciary Committee

FROM: Brent Bengtson, Director
Governor's Office of Drug Abuse Programs

DATE: March 23, 1993

RE: HB2450

I am writing in support of HB2450 as written and to reintroduce the drug-free parks concept.

Just as we send our children to experience drug-free schools, laws should be written to support a drug-free parks atmosphere for Kansas children and families.

As drug dealers are moved away from schools, parks can easily become "drug dealing bazaars", if they are not discouraged by tougher penalties.

It is estimated that only 4-7% of illicit drugs are intercepted. However, the whole idea of punishments for drug dealing is to send a message to the community that illicit drugs are not tolerated. By inconveniencing drug dealers through incarcerating, forfeiting property and removing them from pleasant outdoor settings such as our parks, we are definitely signaling drug dealers to keep on moving.

Meanwhile, there needs to be much more done in prevention and treatment. I believe our parks could be excellent settings for programs in both these areas.

Thank you for this opportunity to lend this written testimony to the Senate Judiciary Committee.

5J
3-23-93
Attachment 4

TESTIMONY OF RALPH D. HAYS, CHIEF OF POLICE
JOHNSON COUNTY PARK AND RECREATION DISTRICT
CONCERNING HOUSE BILL 2450

Mr. Chairman and Senators,

Until it was changed by the House Judiciary Committee, HB 2450 contained language which extended Drug-Free-Zone status to public parks. The original idea was to provide the same protection to children playing in parks as they currently enjoy while attending school, thus making children in parks a less attractive market to drug dealers.

Very often, when we think of school children, we think of the young children in the primary grades. But in our parks--especially during spring and summer--we see a large daily population of high school people who use the parks as their place to meet, see and be seen, recreate, or just hang out. This phenomenon is not specific to urban areas, but repeats itself in parks throughout the state. And these high school people are the ones most at risk.

Drug dealers don't work for free. Like any good business person, they will go where they have the opportunity to make the most money with the least risk. Large concentrations of people provide a market opportunity. The idea behind the whole Drug-Free-Zone concept is one of deterrence, not punishment. The increased penalty is the added risk factor, which makes the market less attractive.

SJ
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Attachment 5

TESTIMONY OF RALPH D. HAYS
CONCERNING HOUSE BILL 2450
Page 2

Recent history indicates we will not stop drug dealers from operating in parks any more than the existing legislation has stopped them from dealing in and around schools. But has there been a deterrent effect due to existing legislation? Would there be a similar deterrent effect if public parks were again included in HB 2450? Is it worth increasing the criminal penalties for drug dealers who ply their trade in or near public parks where children and youth congregate under the hope that the increased penalties will have at least some deterrent effect? I believe the answer to all three questions is emphatically, "yes," and respectfully request the Senate Judiciary Committee put "public parks" back into HB 2450.



KANSAS RECREATION AND PARK ASSOCIATION

700 JACKSON, SUITE 705
TOPEKA, KANSAS 66603

(913) 235-6533
Laura J. Kelly, Executive Director

TESTIMONY SUBMITTED TO THE
SENATE JUDICIARY COMMITTEE
TUESDAY, MARCH 23, 1993
RE: HB 2450

FROM: Laura Kelly, Executive Director of the Kansas Recreation and Park Association (KRPA is a membership organization representing 180 park and recreation agencies and 650 professionals and citizen advocates across the state)

Mr Chair and members of the Senate Judiciary Committee:

HB 2450 in its original form would have added public parks to the drug free zone legislation that allows for stiffer penalties to be levied for drug dealing in and/or around schools. The bill in its amended form reverts back to schools only by removing "public parks" from the wording.

It can be argued that dealing drugs is a criminal offense and sentencing should be consistent no matter where the offense occurs. On the other hand, our society has always taken special care to protect children from being exposed to and making decisions regarding issues and activities beyond their maturational level. (mandatory car seats, school attendance, alcoholic beverages, sexually explicit material, etc).

It can be argued that creating "zones" is a symbolic gesture that has little impact so why bother? Those same arguments were heard when the campaigns against drunk driving and smoking began. Statistics today suggest that real changes in those behaviors have occurred as a combined result of education, legislation and enforcement.

The Drug Free School legislation was intended to discourage drug dealers from setting up shop and preying on impressionable youth in the school setting. While the legislation hasn't eliminated the problem of illegal drugs, it acts as a disincentive to conduct the activity in a place where young people congregate.

Public parks are also meccas for our young people. Much of their afterschool and summer activity takes place in the park setting. The same rationale that moved the legislature to create drug free school zones to allow students a better learning environment, applies to public parks to provide a safer play environment.

KRPA urges you to support the inclusion of public parks in HB 2450. Thank you.

5J

3-23-93

Attachment 6