Approved: May 23, 1994
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Michael O'Neal at 3:30 p.m. on March 10, 1994 in Room 313-S of the Capitol.

All members were present except:
Representative David Heinemann - Excused
Representative Candy Ruff - Excused

Committee staff present:
Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy Wulfkuhle, Committee Secretary

Conferees appearing before the committee:
Kay Farley, Office of Judicial Administration
Sue Lockett, CASA
Orville Johnson, Topeka
Lisa Moots, Kansas Sentencing Commission
Harry Herington, League of Kansas Municipalities
Mike Santos, Assistant City Attorney, Overland Park
Carolyn Hill, SRS
Judge Tom Graber, Wellington
Jim Clark, Kansas County & District Attorneys Association
Allie Devine, Kansas Livestock Association
Bill Fuller, Kansas Farm Bureau
Darrell Montei, Kansas Wildlife & Parks
Kyle Smith, Kansas Peace Officers Association
Jim Young, Kansas Bureau of Investigations

Others attending: See attached list

Hearings on **SB 663** - Court appointed special advocates for juvenile offenders, were opened.

Kay Farley, Office of Judicial Administration, appeared before the Committee as a proponent of the bill. She stated that currently courts allow for the appointment of CASA volunteers in juvenile offender cases and Child in Need of Care cases. This bill would codify existing practices, (see attachment 1).

Sue Lockett, CASA, appeared before the Committee in support of the proposed bill. She commented that this bill would authorize courts to appoint CASA's for juveniles under the juvenile offender code. The language that was used in the proposed bill was the same language used in the Child in Need of Care code, (see attachment 2).

Representative Carmody questioned if there were any cases where CASA personal had been sued so there would be a case to look at regarding the immunity status. Ms. Lockett replied no. Representative Carmody asked if the level of training was different with regards to juvenile cases than Child in Need of Care cases. Ms. Lockett responded that they were different. Supreme Court standards require that there be an additional training program for those who are dealing with offenders.

Orville Johnson, Topeka, appeared before the Committee as an opponent to the bill. He stated that the legislature has been misled regarding the activities that CASA's are doing. Supreme Court Rule 82 states that they shall have 15 hours of training, and when the Shawnee County office was contacted they commented that they were receiving 18 hours of training. He believed that CASA's should receive more training. Family matters are very important and CASA shouldn't be sticking their nose in other peoples business, (see attachment 3).

Donna Whiteman, SRS, did not appear before the Committee but requested that her testimony be included in the minutes, (see attachment 4).

Hearings on **SB 663** were closed.

Hearings on **SB 763** - Restricting mandatory fingerprinting for municipal ordinance violations comparable to misdemeanors to post convictions cases.

Lisa Moots, Kansas Sentencing Commission, appeared before the Committee as a proponent of the bill. She commented that this bill would make it a requirement that municipal court fingerprinting be done prior to the conviction so there would be a link between any new cases that might arise, (see attachment 5).

Representative Pauls suggested that the language on page 4, lines 8 & 9 shouldn't be struck because the purpose of fingerprints in the juvenile system was to apprehend.

Harry Herington, The League of Kansas Municipalities, appeared before the Committee in support of the bill. He commented that this was a reasonable compromise to allow for the collection of fingerprints for future cases by the state. (see attachment 6).

Mike Santos, Assistant City Attorney, Overland Park, appeared before the Committee as a proponent of the bill. He commented that police offices usually do not have fingerprints made in municipal cases. This would give the municipal courts the ability to fingerprint even those who are convicted of a crime, (see attachment 7).

Hearings on **SB 763** were closed.

Hearings on **SB 400** - Out of home placement of juvenile offenders in SRS custody, were opened.

Carolyn Hill, SRS, appeared before the Committee as a proponent of the bill. She stated that this bill would allow SRS to receive federal financial funds through Title IV-E for juvenile offenders who are otherwise eligible but do not meet the requirement for a judicial determination. This bill supports the goals of the SRS Family Agenda for Children & Families by ensuring a judicial review to identify youths who can be provided services in their own communities and homes, (see attachment 8).

Jolene Grabill, The Corporation for Change, appeared before the Committee as a proponent of the bill. She stated that in order to meet the Title IV-E requirement language stating the court findings must be reflected in the written court order.The Courts have the concern that SRS will not spend the money in a way that will enhance the courts ability to implement the new standards in juvenile offender cases. She suggested that the Committee delay passing this bill until they have time to study the appropriations of funds to find a linkage to appropriate the funds, that would result from this bill, to an area that would help the work of the courts to conform with the new statute, (see attachment 9).

Representative Everhart asked if she understood correctly that Ms. Grabill would like the Committee not to act on this bill. Ms. Grabill relied that The Corporation for Change wants this bill but also wants there to be a linkage between **SB 400** and the way the funds are spent. Representative Everhart commented that the primary concern was that there was a way to access federal funds for a underfunded budget and was hoping that she was not suggesting that unless the funds go towards the courts then this bill shouldn't be enacted.

Mark Gleeson, Court Service Officer, appeared before the Committee in support of the proposed bill. He commented that the funding that would be available through the Title IV-E program should be distributed to the judicial branch because of the amount of work that would be required from it, (see attachment 10).

Judge Tom Graber appeared before the Committee as an opponent to the bill. He stated that the courts can't deal and treat juvenile offenders the same as Child in Need of Care cases. SRS hasn't commented on how they plan on dealing with juvenile offenders and how this would improve the Juvenile Offender Code. They simply said that they would get $1.7 million from the federal government. When asked how they planned on spending the funds they commented that they would replace foster care funds that they are currently using. He stated that this is a classic example of the federal government saying that they would give the state money if the state changes what they do and the way that they do it. However, the Fed.'s don't give an adequate amount of funds to be able to implement their programs. The State of Kansas would be better served by saying "no" we pass up these funds. He requested that these changes not be made effective in July 1994.

Hearings on **SB 400** were closed.

Hearings on **SB 517** - Law enforcement officers may issue notice to appear citations to persons violating criminal hunting statute, were opened.

Jim Clark, Kansas County & District Attorneys Association, appeared before the Committee as a proponent of the bill. He stated that this bill was an attempt to solve a large problem of protecting the interests of

landowners and agricultural operations without discouraging the activities of law-abiding hunters. This bill would simply extend authority to issue a notice to appear regarding criminal hunting, (see attachment 11).

Chairman O'Neal commented this would be an option for landowners instead of going down to the courthouse and filing a long form.

Allie Devine, Kansas Livestock Association, appeared before the Committee as a proponent of the bill. She stated that this proposal had been discussed this summer and that this represents a way to solve the problem of trespassing during hunting season, (see attachment 12).

Bill Fuller, Kansas Farm Bureau, appeared before the Committee in support of the bill. He stated that this bill would be another tool for law enforcement officers to issue citations regarding unlawful hunting, (see attachment 13).

Darrell Montei, Kansas Department of Wildlife & Parks, appeared before the Committee as a proponent of the bill. He stated that this bill would simplify the process for landowners to address hunting and fishing trespass problems and allow enforcement officer to respond to the concerns of landowners, (see attachment 14).

Hearings on **SB 517** were closed.

Hearings on **SB 617** - Criminal discharge of a firearm at an unoccupied dwelling to be classified as a person felony, were opened.

Jim Clark, Kansas County & District Attorney Association, appeared before the Committee in support of the bill. He stated that this would raise the penalty for a drive by shooting at an unoccupied building from a non-person felony to a person felony, (see attachment 15).

Kyle Smith, Kansas Peace Officers Association, appeared before the Committee as a proponent of the bill. He commented that most drive-by shootings are gang initiations. This proposed bill would not increase the penalty, it only changes the classification from non-person to person. It's important to start building a record against gang members as soon as possible, (see attachment 16).

Chairman O'Neal asked what would be lost by striking unoccupied. Mr. Smith replied that if one shoots at an occupied building there is a different penalty for that. The Chairman commented that this would be determined after the fact. He was a little concerned about judging the intent retrospectively based on what the facts show. If somebody thinks that a building's unoccupied and it is, it's a severity level 5, but if somebody thinks that there are people in the building and there isn't, then it's a severity level 7 or 8. Mr. Smith stated that was current law.

Hearings on **SB 617** were closed.

Hearings on **SB 618** - Creating crimes of failure to register an aircraft and fraudulent acts relating to aircraft identification numbers, were opened.

Kyle Smith, Kansas Bureau of Investigation, appeared before the Committee as a proponent of the bill. He commented that the KBI & Kansas National Guard had been conducting an investigation where they check for fraudulent registrations on aircrafts. They have uncovered over 170 airplanes, stored in Kansas that have been reported to El Paso Intelligence Center, which keeps records of planes used in drug trafficking. This bill would allow the State to seize the planes and place the person on presumptive probation, (see attachment 17).

The Chairman commented that the intent of the bill would be to seize the airplane as evidence and also to use in additional investigations. Mr. Smith stated this was certainly the purpose.

Hearings on **SB 618** were closed.

The Committee meeting adjourned at 6:00 p.m. Sub committee meetings are scheduled for March 14 & 15. The next Committee meeting as a whole committee is scheduled for March 15, 1994 .

GUEST LIST

HOUSE JUDICIARY COMMITTEE

DATE March 10, 1994

NAME	ADDRESS	ORGANIZATION
BILL FULLER	Manhattan	Kansas Farm Bureau
Duane Waterworth	Topeka	Division of the Budget.
Lisa Unruh	Topeka	DOB
Mark Gleeson	Ottawa	KACSO
JIM CLARK	TOPEKA	KCDAA
Tom Graber	Wellington	KS.
SHERADA COLLINS	OLATHE	KU STUDENT
HARRY HERINGTON	TOPEKA	League of KS Municipalities
KEITH R LANDIS	TOPEKA	CHRISTIAN SCIENCE COMM ON PUBLICATION FOR KS
~~TARA~~ FINKLE	WINFIELD	KU STUDENT
JASON CARRIER	LAWRENCE	KALPCCA
DARRELL MONTEI	PRATT	KDWP
Rob Ladner	Topeka	KDWP
Mateo Diaz	Topeka	Intern

SENATE BILL NO. 663
House Judiciary Committee
March 10, 1994

Testimony of Kay Farley
Coordinator of Children and Family Programs
Office of Judicial Administration

Representative O'Neal and members of the committee:

Thank you for the opportunity to appear in support of Senate Bill No. 663.

Eighteen judicial districts currently have Court Appointed Special Advocate (CASA) programs, two other judicial districts are close to having certified programs, and several other judicial districts are in the early planning stages for such programs.

The Supreme Court Standards and Guidelines for Kansas Court Appointed Special Advocate (CASA) Programs allow for the appointment of CASA volunteers in juvenile offenders cases, in addition to children in need of care cases. The Administrative Judge in each judicial district with a CASA program determines the type of cases that will be referred to the CASA program. If juvenile offender cases are to be referred to a CASA program, specialized training is required before a volunteer can be assigned such a case.

Currently, CASA volunteers are assigned to juvenile offender cases in seven judicial districts. The experience in these judicial districts is that the CASA volunteers provide the judges with valuable information and assistance.

I urge you to favorably consider this bill and codify existing practice.

Thank you for your consideration.

House Judiciary
Attachment 1
3-10-94

KCA **Kansas CASA Association, Inc.**

President
Starla Good Wells
316-662-1688

715 West Tenth Street Topeka, Kansas 66612
913 232-2777

Testimony on SB 663
To House Judiciary Committee
From Sue Lockett, representing the Kansas CASA Association

The Kansas CASA Association represents the eighteen CASA (Court Appointed Special Advocates) programs in Kansas. I am appearing today in support of SB 663.

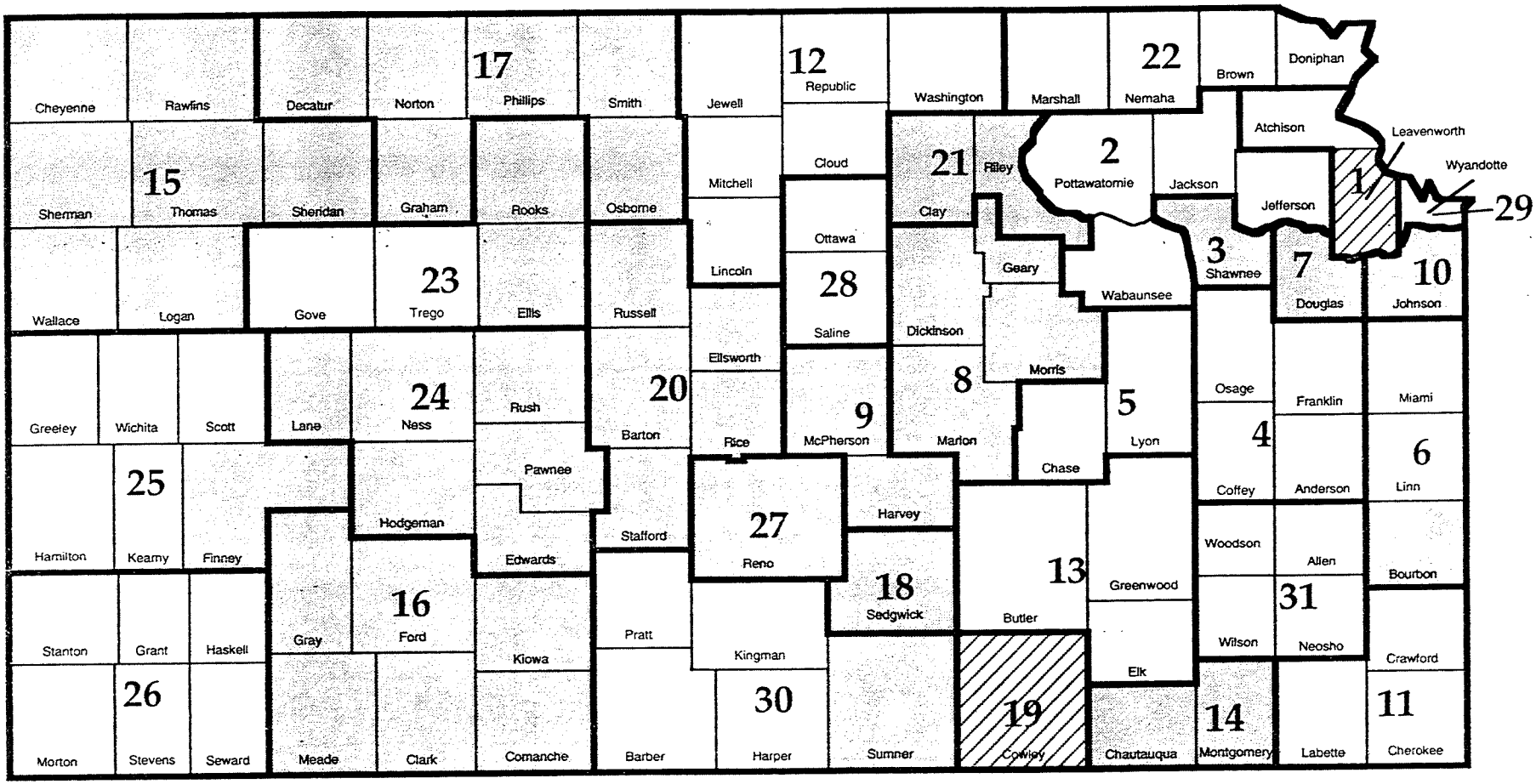
SB 663 authorizes courts to appoint CASAs for juveniles under the juvenile offender code. At this time there are several programs in Kansas who provide CASAs to their courts for juvenile offender appointments. These appointments are made under local court rules. The Kansas Supreme Court has already addressed the training that is required if a CASA is appointed in a juvenile offender case through rule and standards. The Kansas CASA Association would like to see the clarification of what a CASA is and does reflected in the juvenile offender code. The language used in this bill is the same as is used in the Child in Need of Care code. It does not change the CASA's role of advocating for the best interest of the child nor does it grant anything additional to persons performing as CASAs.

Passage of this bill would clarify for the courts across Kansas that a CASA could be appointed under the offender code. It would be up to the individual Judicial Districts and the individual programs as to whether the appointment of CASAs to these cases was needed, wanted and could be funded.

We urge the passage of SB 663.

House Judiciary
Attachment 2
3-10-94

Kansas Judicial Districts (31)
CASA Programs



☐ Judicial Districts/Counties with certified CASA Program

☐ Judicial Districts/Counties without CASA Program

☒ Judicial Districts/Counties developing CASA Programs

Created 11/93 the Corporation for Change
Source: Judicial Branch effective 7/1/92

WHO SPEAKS FOR THE CHILD IN KANSAS?

COURT APPOINTED SPECIAL ADVOCATE

WHAT IS A CASA?

Providing permanence for Kansas children who have come before the courts is a complex and often difficult task. No one solution can solve the problems, but a method which has proven very helpful is the use of Court Appointed Special Advocate (CASA) volunteers.

After being carefully screened and fully trained, the CASA is appointed by the judge to only one active case. The CASA becomes acquainted with the facts and issues in the case by interviewing family members and professionals and studying all pertinent reports. In addition, the volunteer takes time to get to know the child well – including fears and concerns, any special medical or educational needs, adjustment to the current situation, and much more. All of the CASA's activities come together at the time of the court hearing in a written report which summarizes all findings to date and offers recommendations to the judge. The CASA's recommendations may coincide with those of other professionals, or they may offer some innovative alternatives for the judge to consider.

After the court hearing, the CASA's role is to continue monitoring the case to ensure that the court orders are being followed. If there are changes in circumstances or a lack of progress, the CASA brings this to the attention of the court at the next regularly scheduled hearing, or more quickly if appropriate.

The CASA works closely with all other professionals, sharing information and insights. With time to give to each child and the ability to bring a fresh perspective to the case, the CASA can by a valuable asset to a judge who wants as much information as possible before making decisions in court.

CASA programs have been so successful in dealing with abused and neglected children that several programs have expanded into other areas. Kansas CASA programs are assigning volunteers to children involved in juvenile offender and custody dispute cases. Volunteers are trained in these special areas and are being utilized as advocates by the court system.

The first Court Appointed Special Advocate project was begun in Seattle in 1977, and currently almost every state has one or more projects. The first Kansas CASA project was in Wichita, established in 1981. The concept is growing tremendously in Kansas and across the nation because so many judges and other professionals have seen how effectively CASA volunteers advocate for children within the court system.

"Can I take my CASA to school for show-and-tell?"

– A kindergartner

Photo Courtesy of United Way of the Plains, Inc.
Photographer: Paul Bowen

One CASA's Story

If we all lived in a perfect world, every child would have two parents who loved him or her. Since our world is not perfect, a lot of children are growing up without the care and protection they need. I became a CASA volunteer because this program addresses the needs of those children whose lives have been one crisis after another.

My case involves 5 children and their father. The oldest child is 14 and the youngest just turned 8. About 2 1/2 years ago, the mother left the family and that is when the children's lives fell apart. When I became involved with the case the children were back at the Wichita Children's Home after a trial period with their father. That stay with their father was a disaster. The children were truant from school and running away from home. In the nine months since the trial period the father has not made any effort to get the help he needs to care for his children or treat his alcoholism.

With five children the number of people involved in the case multiplies accordingly. There are five therapists and five sets of foster parents along with the usual SRS staff. I have kept track of the children in their different placements and tried to keep the professionals aware of any important developments. When the oldest child expressed distress at being moved from his school since his placement was not working out, I helped the therapist and the placement personnel work out a solution. When one of the other children started having trouble at school , I contacted the teacher and passed on the information to the therapist.

My goal as a CASA has been to try to keep the disruptions to the children at a minimum by keeping everyone informed and by keeping the focus of the case on the needs of the children.

What Can A CASA Do?

1. Two perpetrators served time in prison because a CASA volunteer discovered that the child she was assigned was being molested.

2. A family now has transportation because a CASA volunteer was able to find donated bicycles for them.

3. A mother who cannot read and who needs help with self-esteem is now teaching needlework to handicapped adults because a CASA volunteer cared enough to help her.

4. Children were able to remain in their homes because CASAs were able to keep a close watch on the home situation.

5. The schools are communicating their concerns directly to the Court through CASA reports, thereby shortening the time it takes to make adjustments in children's placement and curriculum.

6. The concerns of foster parents are being expressed through CASA reports to the Court.

7. CASAs are helping coordinate the arrival of evaluations and reports to the Court to help eliminate delays and continuances.

8. A CASA was able to drive by a house 5 to 10 times a day to make sure a perpetrator who had been ordered to stay away was not there. He did not stay out and the child is now in foster care pending a severance trial.

9. A mentally retarded youth is now receiving the concentrated treatment he needs because his CASA volunteer fought for his out-of-home placement.

10. CASA volunteers can be the burr in the saddle of a system which is by nature slow moving. Many a procedure has been expedited because of a CASA's constant reminding.

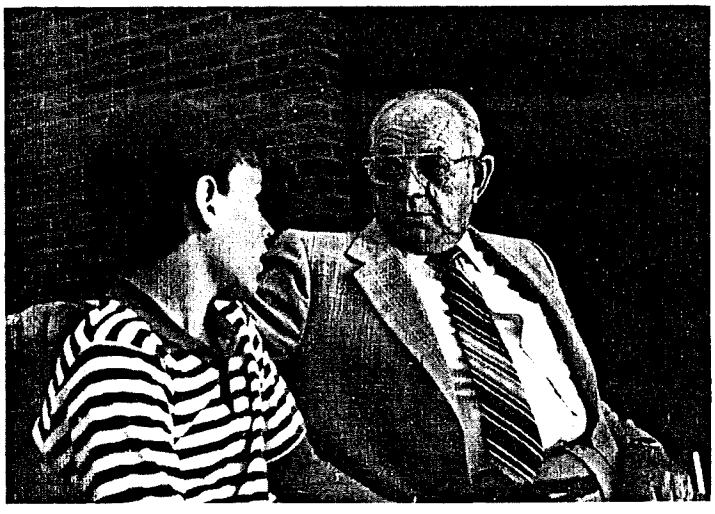


Photo Courtesy of Kansas Action for Children, Inc.

A CASA Success Story

At age 13, Susan was adjudicated a child in need of care and was placed in a foster home. For the next three years she ran away numerous times. Because of poor school attendance and failing grades, Susan was encouraged by her SRS worker to get her GED, and she did so at age 15. Shortly thereafter, she ran again and was gone for three months. When she returned to court, Judy was appointed as her CASA.

Since Susan was nearly 16 years old, had her GED, and would not stay in placement, plans were made to release her from custody into independent living. Meanwhile, Judy had several visits with Susan, and Susan confided that she really wanted to join the Air Force. When Judy discovered that the Air Force will not enlist a woman with a GED (though they will a man), she decided to get Susan back in high school. However, high schools typically will not re-enroll a student who already has a GED, so Judy and Susan had to contact several principals until they found one who would take a chance. "What do we have to lose," he said, "except a little paper-work."

Susan re-entered high school in January 1985 as a sophomore. Her school attendance was marginal, her grades were poor, and her foster home placement was shaky. However, she stayed in school and she didn't run.

Judy has stayed in frequent contact with Susan. She is now in a group home and is very happy there. In her junior year her GPA was 2.56 (out of 4.0). She is now in her senior year, going to school full-time and working part-time, with her bicycle the only transportation to school and work. Susan is now a bright and cheerful senior whose goal is to join the Air Force as soon as she graduates.

For more information on CASA, contact the Kansas CASA Association, 715 West 10th, Topeka, KS 66612, (913) 232-2777

THIS PUBLICATION WAS MADE POSSIBLE THROUGH A GRANT BY UNITED METHODIST HEALTH MINISTRIES FUND, HUTCHINSON, KANSAS.

TESTIMONY

Orvil [illegible]chnson
[illegible]opeka, Kansas

March 10, 1994 S.B. 663

Kansas House Judiciary Comm.

Last March I sat in this very room and witnessed the speech given by a CASA representative that: CASA s are specially trained individuals appointed to look out for the best interest of one child.

THE FACTS ARE:

CASA s are required to receive at least 15 hours of training, but Shawnee Co. has extended theirs clear up to 18 hours. (It takes more hours to learn CPR.) CASA s must be at least 18 years old. (I know of an instance where a college girl was a CASA. I do not believe that people of this age and experience should be getting involved in peoples lives and given the power to influence the outcome of court proceedings.) A member of the Junior League told me on May 6, 1993 that CASAs are mostly spouses of attorneys who are looking out for the interests of women and children. Since the Jr. League put so much into starting the CASA program, I think that it should be obvious where their heart is, AND WHAT THEIR PHILOSOPHY IS. CASAs reports are confidential as are Court Service Officiers reports. By law, CASAs are immune from civil liability for any of their errors, omissions or preconclusions.

DO NOT GET ME WRONG. I BELIEVE THAT THE IDEA OF SOMEONE LOOKING FOR FOR A CHILDS INTEREST IS WONDERFUL! BUT I do believe that such persons should be mature, and trained beyond the point of having just enough knowledge TO BE DANGEROUS. THEY ARE DEALING WITH VERY, VERY IMPORTANT MATTERS, PEOPLES RIGHTS AND FREEDOMS.

CONCLUSION: Immature, uneducated people should not have any influence over other peoples lives. NO one and I mean absolutely no one should be allowed to write up any kind of a report, affecting another persons life, liberties, or happiness without the person being allowed to see this report and to question the preparer of the report about the contents before the judge.

House Judiciary
Attachment 3
3-10-94

LETTERS

12-6-93

What happened to due process?

Did you ever think that your liberty or liberty interests could be taken away without due process? Think again!

Well intentioned, I'm sure, lawmakers have set a dangerous precedent by enacting K.S.A. 60-1615 paragraph c. Let me explain what this law does. In a child visitation or custody battle, it allows the employees of at least two very controversial state bureaucracies, SRS and Court Services, to write reports containing unsworn-to, unverified, inaccurate, incomplete and out-of-context statements. These reports are apt to be filled with outright lies, as they are based almost solely on "he said" "she said" interviews, after telling the interviewees, "You can tell me anything you want, because only the court and I will know what you said."

Now comes the more frightening part! The power-grabbing court systems, in some districts, do not even allow the attorneys representing the parties to have a copy of this report or even discuss what "they saw in it at a glance" with their clients. I ask you, how can an attorney represent his clients if he cannot even discuss with them what ridiculous allegations have been made against him or her?

The minutes of the Kansas House Judiciary Committee hearing on March 18, 1993, will show that I testified before it about this rape of justice that involves a Supreme Court-defined "liberty interest" protected by full measures of "due process," which includes "right to confrontation" that has been ruled to include "right to cross examine" along with face-to-face confrontation.

At the hearing, Chairman Michael O'Neal could not believe that there was anything keeping the parties from getting copies of these reports, routinely. But there are three things: Judicial Department rules, K.S.A. 60-1615 paragraph c, and judges' orders.

FROM
TOPEKA CAPITAL JOURNAL
12-6-93

Committee member and attorney David Adkins of Leawood even supported my contentions by stating that as an attorney he has taken the position that if he can't share the information with his client, he doesn't want to see the information. He stated that in Johnson County the reports are shared with the attorneys with the understanding they are not to be shared with the clients.

O'Neal replied that if reports are going out without judicial oversight, and the stamp is being put on them that it is confidential and cannot be disclosed by the attorney, then there is a problem. He requested that the Office of Judicial Administration (Kay Farley of that office was present) check into this and report back. I had confronted OJA earlier, and they are not going to voluntarily give up one ounce of power. We need a law! We need legislated laws, not adjudicated laws!

> Incompetent bureaucrats can ruin your life and leave you with no recourse. Do something now

Having the Office of Judicial Administration look into the problem is very much like having the fox watch the hen house.

The Office of Judicial Administration is a large part of the problem. They print a court service officers' manual which states that the reports are confidential. (And remember, the CSO interviewers state this unequivocally before the interviews begin.)

Don't wait until you, your children or your grandchildren are in such a devastating situation and at the mercy of some incompetent or unscrupulous state employee who believes that the state should have absolute power over you. Find out what you can do to rectify this atrocity, today. — **ORVILLE E. JOHNSON, Topeka.**

2401 BRADBURY
TOPEKA, KS 66611
913-233-0212

3-2

FROM THE MARCH 5, 1994 ISSUE OF THE TOPEKA CAPITAL-JOURNAL TOPEKA, KS.

3-5-94 - TOPEKA CAPITAL JOURNAL

— *Oscar S. Stauffer, 1886–1982*
Founder, Stauffer Communications Inc.

Understanding court

Kansas has what is euphemistically called no-fault divorce. This means it is never the woman's fault. The courts, established to hear issues of right and wrong, now avoid these issues claiming they are none of the court's business.

Courts now limit their jurisdiction to matters of child custody and property division. Even here the courts have abdicated their responsibilities by constructing mechanisms designed to make decisions for them.

In matters of custody mothers are assumed to be more qualified. This makes custody decisions easy. Home studies are done where the woman is almost always found to be the best parent — in a report that the man is not allowed to see or rebut.

The authors of these reports are almost always female and cannot be called to court to defend their work.

Further, the criteria for their findings are never published or questioned. So, the father loses custody based upon a report he cannot see that is given to a judge already predisposed to award custody to the mother. Anyone surprised?

Property division has been redefined until it pretty much reflects custody. Again, no heavy thinking is required by our great judiciary. The rules are simple: She gets the kids so she gets the house, the better car, the bank accounts, the furniture and a big chunk of the father's paycheck along with half his retirement.

If the Supreme Court's guidelines favor the mother, they are enforced; if they favor the father they are ignored. If he objects he is told about his responsibilities (he has no rights) and her rights (she has no responsibilities).

All our lives we are taught that we will get our day in court. In reality, this almost never happens. Real divorce hearings with witnesses, testimony, evidence, rebuttal, etc., occur only on television. The parties wait in a hallway while the attorneys and the judge cut a back-room deal with their lives, money and children.

The loser (almost always the father) feels cheated. No one seems to understand that actually having your day in court, replete with all the pomp circumstance, is essential to going forward with your life.

That is why so many keep going back to court again and again. They are still trying to get that day in court, not understanding that it's just not going to happen.

Ultimately, they either realize the truth and give up, stop participating (perhaps becoming deadbeat dads) or attempt some act of desperation.

— OREN LONG, Topeka.

Leadership, anyone?

I hope our current mayor and city council, concerned organizations and tolerant citizenry will seriously heed your call for leadership in downtown redevelopment.

Procrastination and unproductive differences between vested groups is fast turning into a shameful spectacle. It is one more example of complacent, uncaring, unresponsive leadership with questionable motivations.

So, again, let us remind our elected officials of their sworn duties or else be held accountable come next election.

— DR. MANUEL M. ESCUDERO, Topeka.

JOAN FINNEY, GOVERNOR OF THE STATE OF KANSAS

KANSAS DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

DONNA WHITEMAN, SECRETARY

March 10, 1994

Hon. Michael R. O'Neal, Chair
House Committee on Judiciary
State House
Topeka, KS 66612

Dear Chairman O'Neal:

I am pleased to recommend passage of Senate Bill 663 which permits a court to appoint volunteer special advocates for juvenile offenders.

The function of a court-appointed special advocate (CASA) is to represent the best interest of the juvenile and to recommend to the court a permanent, safe and homelike placement whenever appropriate. In juvenile hearings, attorneys represent the state and the legal rights of the juvenile but there is not a person whose sole task is to represent the best interest of the youth.

The CASA program for children in need of care has received wide support for its services in providing the court an independent recommendation regarding the best interest of children before the court. The Juvenile Offenders Code has no such provision. Adoption of this bill would provide similar services for youth adjudicated as juvenile offenders. In fact, some courts, realizing the value of CASA volunteers for juveniles, now make such appointments but without specific statutory authority. This bill would not only clarify the authority of the court to appoint CASA's, it would provide the CASA with immunity from prosecution now extended to those who work with children in need of care.

Sincerely,

Donna L. Whiteman

Donna L. Whiteman
Secretary

DLW:CRH:DON

cc: Carolyn Risley Hill

915 SW HARRISON STREET, TOPEKA, KANSAS

House Judiciary
Attachment 4
3-10-94

State of Kansas
KANSAS SENTENCING COMMISSION

Senate Bill 763
House Judiciary Committee
March 10, 1994
Testimony of Lisa Moots

Senate Bill 763 deals with fingerprinting of persons convicted in municipal court of violations of ordinances comparable to class A or B misdemeanors.

The purpose of the bill is to limit the fingerprinting duties imposed on the municipal courts to require that the offender be fingerprinted only upon conviction, rather than at any earlier stages of the proceedings.

This limitation is workable and does not appear to pose any problems relating to the accumulation or availability of criminal history information about these municipal ordinance violations for use in imposing sentences under the guidelines if the offender is ever convicted of a felony.

Jayhawk Tower 700 Jackson Street - Suite 501 Topeka, Kansas 66603-
(913) 296-0923

THE LEAGUE
OF KANSAS
MUNICIPALITIES

Municipal Legislative Testimony

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Judiciary

FROM: Harry Herington, Associate General Counsel

RE: SB 763 -- Mandatory Fingerprinting for Municipal Ordinance Violations

DATE: March 10, 1994

BACKGROUND: I would like to thank the Committee for allowing the League to appear today to testify regarding the fingerprinting requirements found in SB 763. Due to legislation that was passed last session, several cities have voiced concerns regarding the requirement that any person arrested for a violation of a municipal ordinance, which was the equivalent of Class A or B misdemeanor under state law, be fingerprinted and those fingerprint impressions sent to the state. Included in this concern was the fact that it was impossible for many jurisdictions to fingerprint at the time of arrest given the nature of police arrest powers under the municipal court act and the fact that most municipal jurisdictions in Kansas do not have immediate access to a fingerprint kit or machine. Those jurisdictions would then be forced to have individuals fingerprinted by another agency at some cost if, in fact, the municipal judge had the authority to order these individuals to go and be fingerprinted. As a result of these concerns, and at the request of the Senate Committee on Judiciary last fall, the League entered into discussions concerning these areas of the current law with other interested parties and we suggested corrective language which would allow for the concerns of the cities to be addressed.

ANALYSIS: We believe that SB 763 addresses those concerns with the current statute. Specifically, it removes the requirement that all persons arrested for a Class A or B misdemeanor type municipal ordinance offense be fingerprinted and places the fingerprinting requirement only on those people actually convicted of or pleading guilty to a municipal ordinance offense which would be a type A or B misdemeanor under state law. Furthermore, the bill specifically allows for the municipal judge to order persons convicted of violating municipal ordinance provisions to be fingerprinted and processed. It gives discretion to the municipal court judge to order the person to be fingerprinted at an appropriate location as determined by the judge. It also provides that any person who fails to be fingerprinted after a court order, issued by the municipal judge, constitutes a contempt of court. Finally, it will allow the city or other entity to be reimbursed for costs associated with the fingerprinting and sending the records to the state.

RECOMMENDATIONS: The League supports what has been done with the fingerprinting reporting requirements under state statute pursuant to SB 763. We believe this is a reasonable compromise to allow for the collecting of this information by the state but is not overly broad in requiring more fingerprinting than is necessary. Furthermore, we believe it addresses the concerns relating to the costs of fingerprinting and the powers of the municipal court judge to order an individual to be fingerprinted at a location other than city hall or the municipal court. We recommend to the Committee and are hopeful that the Committee will report it favorably. Thank you for allowing the League to participate in and comment on this legislation.

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The City of Overland Park KANSAS

Law Department
Robert J. Watson, City Attorney

City Hall • 8500 Santa Fe Drive
Overland Park, Kansas 66212
913/ 381-5252 • FAX 913/ 381-9387
PROCOMM 913/ 381-0558

March 10, 1994

Chairman Mike O'Neal
and Members of the House Judiciary Committee

RE: Mandatory Fingerprinting and Municipal Offenses

Thank you for permitting the City of Overland Park to present testimony concerning the mandatory fingerprinting requirements addressed by SB 763.

We believe that the fingerprinting provisions adopted last year place a significant logistical burden on municipal courts. This burden stems from the fact most individuals charged with city ordinance violations that are comparable to Class A and B misdemeanors are not arrested or taken into custody by municipal police departments. As you know, K.S.A. 12-4212 permits the arrest of ordinance violators in very limited cases. Because these violators are not arrested, when they appear in court for their arraignment, they have not been processed or fingerprinted. The dilemma for the municipal court judge is how to insure these individuals who have never been in custody are processed and fingerprinted. If the judge orders the person to be fingerprinted and processed prior to a trial on the merits, there is arguably an appearance of prejudging the person. In addition, there may be legal issues concerning the existing authority of municipal judges to order a person who has not yet been found guilty, to be processed and fingerprinted. These issues are primarily focused on the statutory requirement that the court ensure fingerprinting and processing, "upon the offender's first appearance", rather than after conviction. The result of the existing statutory requirement is that persons that are found not guilty or perhaps not even brought to trial are required to be fingerprinted and processed, even though they were never arrested.

We believe the simplest solution to this problem is limiting the requirement for fingerprinting and processing to those individuals actually "convicted" of ordinance

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violations comparable to Class A and B misdemeanors. While this would not necessarily eliminate all of the logistical issues, we believe it would significantly reduce the scope of the problem.

We also support the League's proposal that there be specific statutory authority for municipal court judges to order the fingerprinting and processing of persons convicted of the specified ordinance violations. This authority would include language affording the municipal court's the option to charge court costs to recover the expenses incurred in the mandatory fingerprinting and processing.

Our office is available to assist you as necessary in addressing these issues.

Sincerely,

Michael R. Santos
Senior Assistant City Attorney

cc: Ed Eilert, Mayor
Thomas C. Owens, Chairman Public Safety Committee
Don Pipes, City Manager
Bob Watson, City Attorney
Myron Scafe, Chief of Police
John Douglass, Assistant Chief of Police

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna L. Whiteman, Secretary

House Judiciary Committee
Testimony on Senate Bill 400

March 10, 1994

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SRS Mission Statement

"The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities and benefits of full citizenship by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety and support in collaboration with others."

****

TITLE

AN ACT amending the Kansas juvenile offenders code; relating to certain out-of-home placements; amending K.S.A. 38-1664 and repealing the existing section.

Mr. Chairman, on behalf of Secretary Whiteman, I am pleased to provide you with this testimony in support of Senate Bill 400 which requires a court to determine reasonable efforts have been made to prevent or eliminate the need for out-of-home placement of a juvenile offender or an emergency exists threatening the safety of the juvenile or the public and requiring the juvenile's immediate removal. Periodic hearings are required for juvenile offenders placed outside their homes. These changes would result in more youth being eligible for federal Title IV-E reimbursement.

PURPOSE

There are two primary purposes for this bill, one fiscal and one in support of the SRS Family Agenda for Children and Families. Passage of S.B. 400 will allow the department to receive federal financial participation through Title IV-E for juvenile offenders who are otherwise eligible but do not meet the requirement for a judicial determination reasonable efforts were made to prevent or eliminate the need for out of home placement.

The proposed amendment also supports the goals of the SRS Family Agenda for Children and Families by ensuring a judicial review to identify youth who can be provided services in their own communities and homes. Youth who require out-of-home placement for their safety or the safety of the public will continue to receive appropriate placement services.

BACKGROUND

Juvenile offenders in the custody of the Department and in out-of-home care have not been included in claims for Title IV-E match for the cost of care as they did not meet the eligibility requirement of a judicial determination of reasonable efforts to avoid out-of-home placement. The juvenile code does not now require such judicial finding, forcing the use of all state general funds to meet their needs, including staff costs.

The Department recently completed a study of a representative sample of juvenile offender cases and found 40 percent would clearly have been eligible for IV-E funding if the statutes had mandated judicial review. This compares to approximately 15 percent who are now eligible, primarily due to dual adjudication as a Juvenile Offender and a Child in Need of Care (CINC).

The proposed change would require the court to determine (1) if reasonable efforts have been made to prevent or eliminate the the need for out of home placement of the offender or that an emergency exists threatening the safety of the offender or the public, and (2) if out of home placement is in the best interest of the offender. If the offender is placed outside the home the court would review the case not more than 18 months from the initial placement and annually thereafter.

As originally introduced, SB 400 specified only threat to the safety of the juvenile as a criteria for a judicial determination that an emergency exists. The bill was amended to include public safety. The Department supports the amended bill.

The reasonable efforts requirement of this bill is modeled after a similar provision in the Child in Need of Care code. The bill does not, however, extend any of the requirements of the CINC code to juvenile offenders nor does it in any way limit the department in providing services to habilitate juvenile offenders or protect the public.

EFFECT OF PASSAGE

The requested changes in the Kansas Juvenile Offender's Code would enable offenders receiving community-based services to be eligible for Title IV-E funding when they meet the eligibility criteria.

The annualized increase in revenue is conservatively estimated at $1.2 million which could be used to enhance the quantity and type of services available to juvenile offenders.

It is the intent of the department to provide with any funds realized:
- o Improved Intake and assessment services.
- o Intensive supervision statewide
- o Expansion of mental health services for children and families through purchase of services from private providers.
- o Increase staff to achieve manageable caseload levels and setting standards of quality for caseloads.

RECOMMENDATION

The Department of Social and Rehabilitation Services recommends favorable consideration of S.B. 400.

Carolyn Risley Hill
Commissioner, Youth & Adult Svcs.
Department of Social and
Rehabilitation Services
(913) 296-3284

THE CORPORATION FOR CHANGE

A Partnership for Investing in The Future of Kansas Children and Families

Testimony Before the House Judiciary Committee

Senate Bill 400
March 9, 1994

by Jolene M. Grabill, Executive Director

The Corporation for Change is a non-profit corporation organized by the State of Kansas to coordinate and implement reform of children's services in Kansas. To accomplish this mission, the Corporation builds partnerships between government, business, parents, children's advocacy and service groups to develop a comprehensive and coordinated strategy for investing in the future of Kansas children and families. Our major role is to see connections, test out what works and what doesn't work, experiment with new strategies, and to develop the consensus to reinvest our resources in more comprehensive strategies that do achieve the outcomes we all desire for children and families.

I appear today to support SB 400 and to briefly explain the need for this bill and a caution about the timing of its passage. Over the course of the past year, the Corporation for Change has been involved in a detailed analysis of state spending on services to children and families. The goal of that effort is to define a program and fiscal strategy for reforming children's services which will, in fact, achieve the outcomes for children and families we all desire. That fiscal strategy, then, will inevitably shift our spending emphasis to preventive, community-based, family-focused, decategorized services for children and families in Kansas.

As a first step in that process, we must be sure that the money now spent on children is put to the best possible use. In some cases, the state of Kansas now spends state general funds on programs and services which could be financed with federal funds. It logically follows, then, that if the state has to provide either maintenance or administrative services anyway to juvenile offenders who are also eligible under Title IVE of the Social Security Act (foster care), and if the IVE eligibility of the child in questions make federal funds available to pay for those services, the state should claim a reimbursement under Title IVE and free up the existing state general fund expenditures for other uses. Although this shift might require some changes in reporting techniques, it is largely a change is the way the state claims reimbursements.

We have discussed this statutory change over the past year and received encouragement to move ahead both from our partners at SRS and our partners at OJA. The goal of any statutory change on this point is to come as closely as possible into compliance with the federal language that allows IV-E claiming while also satisfying the policy desired in Kansas. To that end, I suggest the following changes in the bill:

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(1) Reasonable efforts have been made to prevent or eliminate the need for out-of-home placement or ***reasonable efforts are not possible due to*** an emergency ~~exists~~ threatening the safety of the juvenile offender or the community. ~~and requiring juvenile offender's immediate removal out of home placement, and~~

(2) Out-of home placement is in the best interests of the juvenile offender.

Furthermore, it is not just important the determinations in (1) and (2) be made, but they also must be reflected in the written court order. To that end, I suggest adding language in the bill that states:

Language siting the courts findings in 1 and 2 must be reflected in the written court order. The language must exactly conform to (1) and (2) above and such determinations must be raised in conformance with in federal requirements until Title IVE of the Social Security Act.

Now, the caution. The State Court/Education/SRS Liaison Committee, chaired by Shawnee County Judge Dan Mitchell, has worked extensively on this bill since the original Senate hearing. Judge Tom Graeber will be testifying on the issues which remain unresolved in the committee's deliberations. The primary unresolved concern is that the courts don't trust SRS to spend the state general funds - which will be supplanted by the federal revenues this bill allows the state to claim - in a way that will enhances the court's ability to implement this new reasonable efforts standard in juvenile offender cases.

Before passing this bill, we must establish a linkage between this requirement for the new "reasonable efforts" finding and the needed method of spending the resulting funds. I respectfully the chairman send the bill to a subcommittee which can work with the Court/Education/SRS Liaison committee, the Corporation for Change, OJA and SRS on finding such a linkage strategy.

I appreciate the opportunity to testify, and would answer any questions of the committee.

Court Education/SRS Liaison Committee
Agreements RE: SB 400
February 4, 1994

Prerequisites to SB 400

1. Intake/Identification/Assessment of Family Needs (Statewide)
2. Reduced Social Worker (Youth Service) and Court Service Officer Caseloads (Statewide)
3. Statewide Standards and funding for Intensive Supervision Options; Funding for statewide standards and funding for court service officers. Index the money to the standards.
4. Expansion of Mental Health Services for children and families. Include purchase of service contractors.

Barriers

1. Confidentiality Issues
2. SRS Secretary's Veto of Licensing of New Residential Services
3. Money
4. Budget Process
5. We don't know what works
6. No Goal/Shared Vision/ Priorities

Needs (these are listed in the order they emerged during brainstorming - not in priority order)

1. Placement Options
2. Identification/Assessment of Family Needs (Statewide)
3. New Violent Offender Placement Options
4. Youth Centers Progress Back to extended Stays as Needed
5. At Risk Services for Education
6. Statewide Standards for Social Worker and Court Service Officer Case Loads
7. Expansion of Mental Health Services and Others in a Timely Manner for Children & Families
8. Prevention strategies in Kindergarten through Second Grade
9. Interfacing Between Agencies (is not working via wrap-around) Elementary Teachers; Principles need to be involved
10. Juvenile/Adult Jurisdiction in Some Cases-Even After Age 21
11. Ongoing Consensus Building Platform
12. Maintain the child in Placement until Behavior is Modified
13. Agency needs to play role in developing
14. Programs must fit kids-not kids have to fit programs/guidelines. Agency Contracts
15. Bent Kids: Resource Choices/Distribution
16. Statewide Intensive Supervision with Standards
17. MR/MH Population of Kids-no one wants to serve them
18. How significant is the need and how is it financed. That "little card".
19. Need all federal options for line worker salaries at SRS.
20. Family Planning/Pregnancy Prevention

21. Educational Opportunities ie. Home Schooling Issues
22. Adequate Day Care Past Age 12/6th Grade
23. Realistic Priorities
24. Issues of Bent Kids
    Violent Juvenile Offense, More Dispositional Alternatives; Sociopaths
25. Early 0-2 Programs Like Parents as Teachers (universal)
26. Comprehensive Resource Directory: How do we know we are getting our $ worth
27. Teenage Parents (parent training)
28. Legislative presumption of three factors = CINC status
29. No services in Schools needed by JO's
30. Universal Alternative Schools
31. Remedial Services for CINCS and JO's

Source: Compiled by the Corporation for Change 2/4/94

KANSAS ASSOCIATION OF COURT SERVICES OFFICERS

Testimony to House Judiciary Committee
Thursday March 10, 1994

Senate Bill 400: Support with comments

1. What passes for "Reasonable Efforts" will likely be different based on availability of services in each judicial district.

Requiring that reasonable efforts have been made to prevent or eliminate the need for removal of a child is currently the standard for placing a child in need of care in an out of home. We support creating this same standard for juvenile offenders. There is some concern, however, that those programs which generally provide "reasonable efforts" are inadequate in many locations.

Traditional probation supervision provided through Court Services is the most widely utilized "pre-placement" service in the state for juvenile offenders. Supervision by Court Services includes such activities which contribute to public safety as meeting with the offender, family, and school; urinalysis; and referral to community agencies. It may also include consequences, commonly referred to as intermediate sanctions, such as house arrest, electronic monitoring, and increased frequency of meetings with the CSO. While basic supervision (i.e. meeting with the CSO) is available throughout Kansas, many offices are not able to provide the intermediate sanctions necessary to provide consequences for minor violations that often precede the need for placement.

Reasonable efforts to prevent an out of home placement should also include community based services such as juvenile intake, attendant care, multidisciplinary teams, mediation, inpatient and outpatient drug and alcohol treatment, emergency/temporary placements. These programs do not exist throughout the state and, where they do exist, they are often not accessible to the juvenile offender population. Any requirement for the Court to find that reasonable efforts have been made should include consideration for these programs.

2. Funding available through the Title IV-E of the Social Security Act should be distributed with consideration for the workload S.B. 400 would create on the Kansas Judicial Branch and in establishing programs which provide reasonable efforts to maintain juvenile offenders in the least restrictive setting.

The supplemental Note prepared by the Legislative Research Department indicated there is an expected increase in revenues between $500,000 and $1.1 million per year if this bill is passed. While it is relative apparent that these funds would be used to improve the scope and availability of services listed above, a portion of these funds should also be made available to the Court to offset the workload increase for the required hearings.

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Kansas County & District Attorneys Association

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Testimony in Support of

SENATE BILL NO. 517

The Kansas County and District Attorneys Association appears in support of Senate Bill No. 517. The bill merely extends authority to issue a notice to appear, or traffic citation, under K.S.A. 8-2106 to include violations of K.S.A. 21-3728, criminal hunting, a class C misdemeanor. While the bill appears simple, it is an attempt to solve a large and complex problem: protecting the interests of landowners and agricultural operations without discouraging or impeding the activities of law-abiding hunters.

The effect of the bill is to allow a wildlife and parks or other law enforcement officer to issue a citation at the time the violation is observed, without having to take statements, write a report, and more importantly, without requiring the landowner to come to the prosecutor's office to sign a long-form complaint. The bill thereby enhances enforcement and reduces the time and effort required by officers, prosecutors, and landowners.

The changes made in the bill will not preclude a landowner's filing of a complaint against violators who have not been initially apprehended by an officer. It also does not depart from legislative policy. An examination of the legislative history of 8-2106 shows that virtually every year the statute is extended to include another set of crimes. Presently such offenses as driving under the influence, open container, and furnishing alcohol to minors may be charged under this statute.

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Kansas Livestock Association

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Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

March 10, 1994

TO: House Judiciary Committee - Rep. Mike O'Neal, Chairman

FROM: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

RE: Supporting Comments of Senate Bill 517

The Kansas Livestock Association represents thousands of farmers and ranchers who own and/or operate much of this state's private land. Trespassing is a common complaint our members have voiced for many years. Because of this situation, we participated last summer and fall in numerous working sessions to determine what could be done to address this problem. Prosecuting attorneys, county sheriffs, sportsmen and Kansas Department of Wildlife and Parks representatives attended these sessions. Many ideas were discussed and debated extensively. It was our intention, and I believe the intention of others who participated in these sessions, to work towards a consensus on initiatives and solutions to the trespass complaints.

Most participants agreed more effort was needed in an educational manner to alert landowners, sportsmen and the general public about our trespass laws and posting (signs) requirements. Starting last fall, KLA has spent considerable effort in educational opportunities so our members are more aware of trespass laws and how they can best protect themselves if they are experiencing trespass problems.

The second area of consensus is the concept contained in Senate Bill 517. This bill simply amends K.S.A. 8-2106, to allow law enforcement officers to issue "notice to appear" citations to anyone who violates the unlawful hunting act (K.S.A. 21-3728). This certainly does not address all trespass situations. It does, however, address most of the complaints that deal with entering private land without permission for hunting and fishing purposes.

Under the current statutes, if a landowner catches someone trespassing on their property, they're forced to file charges against the violator. It just doesn't appear fair that a landowner has to take the initiative to go to the courthouse and burden an overworked county attorney to file charges against someone who was breaking the law. With the procedure authorized in SB 517, the landowner can call the Wildlife and Parks Conservation Officer or the county sheriff. At that point, the law enforcement officer can then treat it like a traffic citation and write them a ticket. It is our hope that Wildlife and Parks Conservation Officers will use this provision to deter trespassing, especially during peak hunting seasons.

Again, this proposal has been discussed thoroughly by all of us who met throughout the summer on this project. I'm confident you'll find that law enforcement representatives and county/district attorneys support this as well. It certainly won't solve all of our problems, but we think it is a positive step to penalize trespassers and deter trespassing.

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21-3728. Unlawful hunting. Unlawful hunting is fishing, or shooting, hunting or pursuing any bird or animal upon any land of another or from any traveled public road or railroad right-of-way that adjoins occupied or improved premises, without having first obtained permission of the owner or person in possession of such premises.

Unlawful hunting is a class C misdemeanor. Upon the first conviction thereof after the effective date of this act, and in addition to any authorized sentence imposed by the court, such court may require the forfeiture of the convicted person's hunting or fishing license, or both, or, in any case where such person has a combination license, the court may require forfeiture of a part or all of such license and the court may order such person to refrain from hunting or fishing, or both, for one (1) year from the date of such conviction. Upon any subsequent conviction thereof, and in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting or fishing license, or both, or, in any case where such person has a combination license, the court shall require the forfeiture of a part or all of such license and the court shall order such person to refrain from hunting or fishing, or both, for one (1) year from the date of such conviction. A person licensed to hunt and following or pursuing a wounded game bird or animal upon any land of another without permission of the landowner or person in lawful possession thereof shall not be deemed to be in violation of this provision while in such pursuit.

History: L. 1969, ch. 180, § 21-3728; L. 1977, ch. 113, § 1; July 1.

Source or prior law:
32-139.

12-2

PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON JUDICIARY

RE: S.B. 517 - Issuing citations for unlawful hunting/trespassing.

March 10, 1994
Topeka, Kansas

Presented by:
Bill Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Chairman O'Neal and members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. We certainly appreciate this opportunity to express our support for S.B. 517.

S.B. 517 adds "unlawful hunting" to the list of violations that authorizes law enforcement officers to issue citations. Adoption of this process would add another tool for law enforcement. We are told the current process is time consuming. We are assured adoption of S.B. 517 would speed up the process and provide the opportunity for more charges to be filed.

S.B. 517 addresses "unlawful hunting". Frankly, most landowners are more concerned about "trespassing"! We support S.B. 517 because "trespassing" often results from "unlawful hunting". Protecting private property rights is the #1 priority established by Kansas Farm

Bureau and on the national level by the American Farm Bureau Federation. While our farm and ranch members would like to see stronger deterrents to "hunting/fishing without permission" and "trespass", we consider S.B. 517 a positive step.

KFB support of S.B. 517 is based upon new policy adopted by the 426 Voting Delegates representing the 105 County Farm Bureaus at the 75th Annual Meeting in Wichita on November 20, 1993. A Section of the KFB Resolution on "Hunting and Fishing Regulations" states:

> **"We believe those who hunt and fish should possess written permission, signed by the landowner or operator, stating the days hunting or fishing is permitted and giving a description and the location of land on which permission is granted. We urge enactment of legislation requiring law enforcement officers to issue citations containing a notice to appear in court if individuals hunting and fishing do not have proof of permission to be on such property..."**

We commend Senator Frahm and her staff for their interest and their leadership in bringing landowner, wildlife, law enforcement and state agency representatives together. We all discovered the issue of trespass was complicated. After a number of meetings and hours of debate, the task force recommended the introduction of S.B. 517. Again, Kansas Farm Bureau supports S.B. 517 and respectfully asks for your support. Thank you!

STATE OF KANSAS

Joan Finney
Governor

DEPARTMENT OF WILDLIFE & PARKS

OFFICE OF THE SECRETARY
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Theodore D. Ensley
Secretary

S.B. 517

Testimony Presented To: House Judiciary Committee
Provided By: Kansas Wildlife and Parks Department
March 10, 1994

S.B. 517 amends K.S.A. 8-2106 to authorize a law enforcement officer to enforce violations of K.S.A. 21-3728 through use of a notice to appear. K.S.A. 21-3728 addresses hunting and fishing without permission. Currently, a violation of K.S.A. 21-3728 requires a long form complaint which must be completed and signed by the landowner or person in charge of the land.

During 1993, the Department participated in discussions with other law enforcement representatives, county attorneys, conservation and firearms organizations and agricultural organizations to address trespass problems resulting from hunting and fishing and to recommend solutions. The effort was undertaken at the request of Senator Frahm who chaired the group.

S.B. 517 is a result of that effort and will improve and simplify the process for landowners to address hunting and fishing trespass problems and allow enforcement officers to better respond to those violations. Problems caused by hunting and fishing trespass are a serious concern for many landowners and iters and it affects landowner/hunter relationships. S.B. 517 responds to those concerns and will help improve relationships. The Department supports S.B. 517 and urges its passage.

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Kansas County & District Attorneys Association

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Testimony in Support of

SENATE BILL NO. 617

The Kansas County and District Attorneys Association appears in support of SB 617, which simply raises the penalty for criminal discharge of a firearm at an unoccupied building from a nonperson felony to a person felony.

The purpose of the bill is to emphasize the serious nature of firing into a dwelling, which, unless the perpetrator has previously scouted the premises, is more likely than not to be occupied. Raising the penalty from a nonperson to a person felony is also consistent with other crimes involving a dwelling or residence.

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KANSAS BUREAU OF INVESTIGATION

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ROBERT B. DAVENPORT
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TESTIMONY
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
BEFORE HOUSE JUDICIARY COMMITTEE
IN SUPPORT OF SENATE BILL 617
March 10, 1994

Mr. Chairman and Members of the Committee:

I appear today on behalf of the over 3,000 members of the Kansas Peace Officers Association in support of SB 617. This bill changes one word which can have a very beneficial impact in the fight against gangs. While not changing the severity level, SB 617 makes the drive-by shooting of an unoccupied home a person felony, rather than a non-person felony. While not affecting the amount of time a person would receive for the commission of this offense, it would have a substantial impact on their placement on the sentencing grid for future sentencing if they continue to commit unlawful acts.

Since drive-by shootings are a common exercise in intimidation by violent street gangs, this change will pay benefits in enabling us to incarcerate gang members for longer periods of time, assuming they don't change their ways.

Currently, burglary of an unoccupied home is a person felony and we feel it as at least intrusive to fire a clip load of bullets through a home as to reach in a window and grab a radio.

On behalf of law enforcement officers throughout Kansas I would ask your support of SB 617 and I would be happy to stand for questions.

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KANSAS BUREAU OF INVESTIGATION

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ROBERT T. STEPHAN
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TESTIMONY
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
BEFORE HOUSE JUDICIARY COMMITTEE
IN SUPPORT OF SENATE BILL 618
March 10, 1994

Mr. Chairman and Members of the Committee:

I appear today on behalf of the Kansas Bureau of Investigation in support of SB 618. I find myself in the peculiar situation of having to explain obscure illegal activity that does not make headlines every day, as opposed to other flashier issues which have been the topics of discussion of this committee so far this session. The KBI, with the Kansas National Guard, has been conducting an investigation called Operation Drop-In. The whys and wherefores of this program can best be explained by Special Agent Jim Young, who is also here to testify, but in short, we started a proactive check of airplanes in Kansas.

It soon became evident during the course of this investigation that there are an incredibly large number of airplanes being parked or stored at Kansas airports which have in some form or fashion fraudulent registration. This may take the form of non-registered airplanes or planes registered to non-existent businesses, individuals, or merely altering the tail numbers displayed on the planes, so identification of the actual owner is made more difficult or impossible. The apparent reasons for this phony registration is to hide the actual owners, avoid taxes, facilitate actual drug smuggling or the investment of illegal proceeds in the purchase of an airplane.

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Under current law the false registrations are a violation of FAA regulations, but not crimes. Both because it is merely a regulatory violation and also because there are insufficient investigative personnel working for the FAA to pay attention to small rural airports, current federal law is ineffective in dealing with this problem, as evidenced by the large number of planes we have located.

SB 618 is based upon comparable state statutes from Florida, which obviously has been dealing with these problems a little longer and more extensively than Kansas.

Finally, by making these phony registrations a criminal offense, even just level 8 with presumptive probation, would allow law enforcement to seize the airplanes as evidence and thus prevent their sudden departure from the state when law enforcement starts nosing around. This experience was also encountered during Operation Drop-In.

At this time I would like Special Agent Jim Young to provide some additional and more detailed testimony regarding this problem. Thank you.

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