

Approved: 2/4/94
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Jerry Moran at 10:00 a.m. on January 27, 1994 in Room 514-S of the Capitol.

All members were present except: Senator Rock (excused)

Committee staff present: Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Darlene Thomas, Committee Secretary

Conferees appearing before the committee:

Jason Finson
Mark Gleeson, Chief Court Service Officer, Ottawa
Nola Faulston, District Attorney, Sedgwick County
Ellen Hanson, Chief of Police, Lenexa
Joseph Huerter, Attorney
Judge Dan Mitchell, Topeka
Kyle Smith, Kansas Bureau of Investigation
Major John Douglas, Assistant Police Chief, Overland Park
George Schuerman, Kansas Police Officers Association
Lee Doebling, Kansas Association Chief of Police
Melody Cathey, Board of Indigents' Defense Services
Carolyn Hill, Social and Rehabilitation Services

Others attending: See attached list

Jason Finson provided testimony to the Committee regarding the juvenile crime problem (Attachment No. 1). He related the death of his younger brother, Tony. Tony's life was taken by a 15 year old, under house arrest for previously committing a misdemeanor at the time of the shooting. Written testimony was also provided by Scotty Goldsmith, Brett Simnitt and Chad Phillips (Attachment No. 1).

SB 513--prosecuting 16 and 17 year olds as adults

Nola Faulston, District Attorney, Sedgwick County testified in favor of SB 513. She stated this bill would be acceptable to prosecutors state wide.

Ellen Hanson, Chief of Police, Lenexa, Kansas provided written testimony on SB 513, SB 500, and SB 502 (Attachment No. 2). Tom Shaffer gave a summary of Chief Hanson's testimony and answered questions from the Committee.

Mark Gleeson, Chief Court Services Officer, Ottawa and Legislative Chairperson of Kansas Association of Court Service Officers, gave testimony against SB 513 (Attachment No. 3) and answered questions by the Committee. He said this bill limits options available to the court and because it does not address the issue of public safety.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:00 a.m. on January 27, 1994.

Joseph Huerter, Attorney provided testimony in opposition to SB 513 (Attachment No. 4) and answered questions from the Committee. He said the bill, as it is written, removes discretion from the Judges on the issue of certification of a minor to stand trial as an adult.

Melody Cathey, Board of Indigents' Defense Services provided written testimony in regard the fiscal impact of SB 513 (Attachment No. 5). She stated the statistics she had obtained reflected there were 224 waivers of juveniles into adult court last year.

Senator Moran closed the hearings on SB 513. Discussion of this bill will be scheduled for a later date.

SB 501--require presence of parent or guardian at juvenile offender proceedings

Judge Dan Mitchell, Topeka testified in favor of SB 501.

SB 502--records of certain juvenile offenders to be open for public inspection

Judge Dan Mitchell, Topeka testified against SB 502. He suggested the language be modified to read files being opened post adjudication for 14 and 15 year olds.

SB 512--restitution by parents and guardians

Judge Dan Mitchell, Topeka testified in favor of SB 512.

Senator Moran announced the Judiciary Committee would meet upon adjournment of the Senate today in room 254-E. Hearings would continue on SB 501, SB 502, and SB 512. Hearings will begin on SB 603, SB 608 with possible action on bills previously considered.

Afternoon Session Room 154-E

A motion was made by Senator Petty, seconded by Senator Parkinson, to introduce a bill dealing with the juvenile authority. The motion carried.

SB 501--require presence of parent or guardian at juvenile offender proceedings

SB 512--restitution by parents and guardians

Mark Gleeson, Chief Court Service Officer, Ottawa, provided testimony in favor of SB 501 (Attachment No. 3). He noted this particular bill would have a work load impact on the County and District Attorney as well as the Court system in the notification of parents, guardians, or persons with whom the juvenile is residing.

Nola Faulston, District Attorney, Sedgwick County testified in favor of SB 501. She also testified in favor of SB 512. She asked the Committee to place language in SB 512 that in those cases where the Court finds restitution would be unworkable, or if the court wishes to do so, assign community service work to the parent as well as to the juvenile.

Chairman Moran closed the hearings on SB 501.

SB 502--records of certain juvenile offenders to be open for public inspection

Mark Gleeson provided testimony against SB 502 (Attachment No. 3). He is opposed to opening the official file of persons who are 14 or 15 years of age prior to adjudication. He requested the bill be amended to limit to adjudication records and define the term "arrest record".

Nola Faulston, District Attorney, Sedgwick County testified in favor of SB 502. Ms. Faulston expressed concern about the language "arrest records" due to federal statutes which prohibit disclosure of arrest records.

Kyle Smith, Kansas Bureau of Investigation provided testimony in favor or of SB 502. He expressed concern with the language "arrest records".

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:00 a.m. on January 27, 1994.

Carolyn Hill, Social and Rehabilitation Services provided testimony on SB 512. She expressed concern that this bill did not exempt the Secretary of Social and Rehabilitation Services, as legal custodian, from restitution (Attachment No. 6).

Mark Gleeson, Chief Court Service Officer, Ottawa, provided testimony in favor of SB 512 (Attachment No. 3). He suggested the bill be expanded to allow the court to enter as a civil judgment any unpaid restitution at the end of the probation period or following a period established by the court for the full payment of restitution. He also suggested credit cards be made available for payment of restitution.

Ron Smith, Kansas Bar Association addressed the Committee in regard to SB 512. He expressed concern with the term "restitution" in regard to parents. He said the term restitution implied a crime had been committed. He said the term "parental neglect" needs to be defined.

Chairman Moran closed the hearings on SB 501, SB 502, and SB 512.

SB 501--require presence of parent or guardian at juvenile offender proceedings.

A motion was made by Senator Petty, seconded by Senator Ranson to report SB 501 favorably. The motion carried.

There was discussion that the language from SB 280 be amended into SB 512 regarding the court ordering the juvenile offender and the juvenile offender's parents or guardians to perform charitable or social service for organizations performing community service in an effort to contribute to the rehabilitation of the juvenile offender or to the ability of the parent, guardian or legal custodian to provide proper parental care and supervision of the juvenile offender. It was suggested to amend language from SB 280 into SB 512 the language that no order shall be entered in this subsection requiring the Secretary of Social and Rehabilitation Services to make restitution or perform charitable or social service.

A motion was made by Senator Ranson, seconded by Senator Feleciano to amend SB 512 to reflect the language in SB 280 concerning restitution and exempting the Secretary of Social Rehabilitation Services from restitution.

A substitute motion was made by Senator Bond, seconded by Senator Martin to table SB 512 with no action at this time. The motion failed.

A motion was made by Senator Petty, seconded by Senator Bond to amend SB 502 to limit records to be disclosed only after adjudication.

A substitute motion was made by Senator Emert, seconded by Senator Feleciano to amend SB 502 to strike "arrest records" from the language. The motion carried.

A motion was made by Senator Feleciano, seconded by Senator Ranson to amend SB 502 by publishing the bill in the Kansas Register instead of the statute book and report the bill favorably as amended. The motion carried.

SB 608--the gang activity act.

Nola Faulston, District Attorney, Sedgwick County provided testimony in favor of SB 608. Ms. Faulston suggested the language on line 29 be struck due to the statute of "aiding and abetting a crime". The Chairman suggested the district attorneys work with the Committee to make amendments to SB 608.

Lee Doehring, Kansas Association of Chiefs of Police spoke in favor of SB 608.

George Scheurman, Kansas Police Officers Association spoke in favor of SB 608.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:00 a.m.
on January 27, 1994.

SB 603--use of juvenile by adult

Kyle Smith, Kansas Bureau of Investigation testified in favor of SB 603 and answered questions from the Committee.

A motion was made by Senator Vancrum, seconded by Senator Ranson to amend SB 603 to read doubling the offense for underlying crime. The motion carried. Committee staff was asked to draft the language change and bring it back to the Committee.

The meeting adjourned at 4:30 p.m.

The next meeting is scheduled for January 31, 1994.

GUEST LIST

COMMITTEE: Senate Judiciary Committee

DATE: 1/27/94

NAME (Please Print)	ADDRESS	COMPANY/ORGANIZATION
Michael Hawthorne	5724 Odessa ^{Wichita, KS} 67220	Heights High School ^{A.P. Government}
Jonathan Schiffe)	3129 N Governor ^{Wichita} KS 67224	Wichita Heights H.S., Advanced Government class
Colin DeAngelo Pate	Topeka	Private citizen
Will McMillen	4729 SULLIVAN ^{WICHITA KS} 67204	HEIGHTS H.S. A.P. GOVERNMENT CLASS
Mark Brandt	3314 N. Market ^{Wichita} 67218	Wichita Heights H.S.
Joe Amer	3909 N. Rushwood ^{Wichita} KS.	" "
Kim Taylor	3658 Armstrong ^{Wichita} KS 67204	Wichita Heights
Michelle R. Thompson	4423 N. Edgemore ^{Wichita} KS 67220	A.P. Government
Doug Johnston	Wichita	PPK
Stephanie S. Smith	Topeka	SCYC -intern
Doug Bowman	"	Corporation for Change
Tom Schaefer	12350 W. 87th St. ^{Penry} Lenexa, KS 66215	City of Lenexa
Cindy Kelly	Topeka	KASA
Renee Gardner	"	Governor's Office
Jan Johnson	Topeka	KDDC
Chad Phillips	Topeka	Seaman High School
Brett Simmitt	Topeka	Seaman High School
Scotty Goldsmith	Topeka	Seaman High School
Bon Finson	Topeka	Seaman High School
Joni Andrews	Topeka	BIDS
Mal Cothran	Topeka	BIDS
Katie Pyle	"	DARP-CCTF / Supv. Committee
Katie Spruko	"	DOB

Ben Cortes Topeka KPA
 Roger Franke " Ks Gov't Consulting
 Catherine Hildeman Wichita City of Wichita

GUEST LIST

COMMITTEE: Senate Judiciary Committee

DATE: 1/27/94 (P.M.)

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PREPARED REMARKS BY JASON FINSON

This is my younger brother, Tony, who was a friendly, helpful, and caring boy. Last September 10th, his life was taken by a 15 year old, who was under house arrest for previously committing a misdemeanor.

I will not call it an accident. The 15 year old who produced a gun, deliberately pointed it at Tony's face, and pulled the trigger knew exactly what he was doing. I will not accept his excuse of "I didn't mean to do it," nor will I believe his story of being "sorry." People are "sorry" if they accidentally break something, or if they accidentally bump into another person. For those acts, being "sorry" carries some remorse, and in my opinion, this boy has shown no remorse whatsoever.

Surely somewhere along in his 15 years, there was someone-some authoratative figure in his life, if not his parents, to instill in him a sense of right and wrong. He should have known that guns kill and are not toys; that we do not pick up a gun and aim it at someone and purposely pull the trigger just for the sheer pleasure of it. He should be held responsible for his actions, and made to realize the terror that Tony felt in his final moment of life.

The fact that so much time elapsed from the time of the shooting until help was summoned for Tony further proves that be was "buying time" to cover his tracks. A person who was truly innocent for an act such as this would have put aside their own interests to immediately call for help. Tony might have had a chance to live-instead he was left to bleed to death, with paramedics just two or three minutes away.

What is to keep young adults from using juveniles to carry out their crimes, knowing that a juvenile may not be tried and punished as an adult? Perhaps stricter laws for teens who kill would be a deterrent to crime for

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all juveniles and young adults.

I hope that our testimony is useful in getting these laws passed. My brother is dead-nothing can bring him back to us, but I hope other families will be spared the pain, shock, and trauma that I and my family have experienced. I hope other families will be spared that call from the hospitals to come in and view the bloody lifeless body of their loved one-a senseless act by a juvenile.

PREPARED REMARKS BY SCOTTY GOLDSMITH

If your doctor told you that you had a high cholesterol level you would change your diet in the hopes of reducing your chances of heart attack. Following this logic if our country's number one health agency declared something to be a serious public health hazard, we as a country would throw our efforts into combatting this hazard. But yet this very thing has happened and we as a country, state, and a community have ignored these problems. In 1983, the Center for Disease Control (CDC) declared firearm related violence a public health hazard. In doing so they hoped to find some way to help curb the sweeping violence in our society. Two major discoveries were made in their research. Based upon a study from 1980 to 1986, comparing Seattle, Washington and Vancouver, British Columbia, two cities almost identical in location, size, and socio-economic status, the only factor researchers found for Seattle's higher homicide, assault, and suicide rates was the availability of guns.

Another major discovery was the availability of guns to juveniles. A survey of 11,000 teenagers in 10 states found that 41% of boys and 21% of girls said they could obtain a hand gun whenever they needed. It was also reported that in the Southeast 9% of boys actually owned a hand gun. Most typically received their guns around twelve and a half, but more than a fifth had their gun their tenth birthday.

Ignoring the CDC's warning for 11 years has put some states in a tough position. We are asking you to take action on these matters now, before our situation gets worse.

PREPARED REMARKS BY BRETT SIMNITT

Over the past two years 60,000 people have died in the U.S. from firearm deaths, more than in the Vietnam War alone. Our rate of murders per 10,000 is six times higher than Europe's and seven times greater than greater than Japan's. Buying guns for protection will probably do more than harm than good. If the gun is kept in your home it is more likely to be used on you or your family than in self protection. Up until The passage of the Brady Bill criminals could still legally purchase firearms in 28 states. In the past year our federal government has taken tentative steps forward to protect the citizenry, but we all know that the states have a better chance of fighting our crime problem. That's why we are here today. We are asking that you no longer treat any criminals, whether they are juveniles or adults, lightly. Teen-age murder's should serve longer than six years. In our opinion a human life is worth more than the money it costs to incarcerate the offender. We must teach juvenile offenders a hard lesson early on.

PREPARED REMARKS BY CHAD PHILLIPS

Throughout the years, we as Americans have recognized when we face violent threats to our public health and have tried to combat them. In the late 70's and 80's our country felt that we faced a serious threat due to terrorism on airplanes. We have spent millions of dollars on airport security and contented ourselves we were safe from a major threat. The fact is though that only 20 people fell victim to terrorist attacks in 1986. We as a society also consider drugs to be a public health threat. We have spent billions of dollars in our war against drugs. In 1986 only 508 people died from drug overdoses. On the other hand, in 1986, 10,000 people were killed by firearms. Why is the number of firearm deaths much larger than the other areas? The answer is simple. Our spending on gun-control is nill, but we feel that gun-control is not the only answer to helping the gun problem in our state. Tougher penalties for those who use guns in the commission of a crime, wether they be 13, 19; or 45 are needed. We also support any measure that would lower the age at which people are tried as adults in major offenses to 14. We would also support any law that in any way stiffens penalties for juveniles committing major offenses.



January 27, 1994

Testimony of Chief Ellen T. Hanson Regarding Senate Bills 500, 502 and 513

Ladies and Gentlemen,

I want to spend a short period of time today discussing the changes that need to be made in the Kansas Juvenile Code, changes that are necessary due to the major evolution in the type of young person that is currently being plugged into the juvenile justice system. I will not spend time repeating statistical proof that there is a problem dealing with juveniles, crime and violence, I'm sure that the media and your constituents have already done that, instead I want to highlight the current trends that make the changes offered in these bills vital.

Introduction

The juvenile code as it exists today was designed both to protect and to assist in re-focusing juvenile offenders. These young perpetrators were adjudicated under a less stringent juvenile system than their adult counterparts as they were assumed to be too young and uneducated in the ways of the world to be held responsible for their actions. For many years it served us well as the vast majority of cases involving juveniles were status offenses including runaways and truants and the occasional acts of vandalism or harassing phone calls. Those days are over and today large numbers of juvenile offenders fall into the serious, violent and even deadly categories. This change grows daily, is unrefutable and provides the basis for the philosophical justifications for each of the following bills.

Senate Bill 500

Most Kansas who read the news papers would be hard pressed to believe that 16 and 17 year olds who either possess or use a firearm in the commission of a crime are too naive and uneducated to realize the gravity of their acts. Five years ago it we annually retrieved no more than two to four guns from young people. Now in Lenexa we routinely sieze that many in a week. Nationally the use of guns by juveniles has become so common place that only the most

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hideous of crimes gets any real attention. In the United States, juveniles who associate with their age mates are the most likely group to be victimized by acts of violence.

I am not limiting my comments to experiences involving the inner city. The suburbs and rural areas have experienced actual gang activity which sees routine use of weapons. In areas other than the hard core urban neighborhoods the practice of carrying a gun in a vehicle is an every day occurrence. This oftentimes is seen as a way of empowering otherwise ineffectual young people. The guns are used to intimidate as well as victimize and the mere presence of a weapon opens the door for a tragedy. The problem grows geometrically as suburban youth arm themselves either for protection or to emulate the gang culture that they find so different and fascinating.

I encourage you to amend the code to permit juveniles carrying or using weapons in certain circumstances to be tried as adults. I see this as a positive proactive step to reducing the number of weapons that can be used in acts of violence. Tying a second conviction to the surrendering of a drivers license makes a constructive connection between using a weapon in drive-by situations which are some of the most predominant uses and it serves as a powerful deterrent because we all know how important being mobile is to those under 18.

Senate Bill 502

Lowering the age limit from 16 to 14 to provide for limited access to juvenile records is necessary. This will enable a constructive exchange of information between law enforcement personnel and those providing treatment, education, and social services.. As stated earlier, this information link has become more important as the level of violence and serious crime committed by young people increases. If a student has been arrested with a weapon and law enforcement personnel have reason to believe that the offense may occur again at school, they need to be able to communicate these facts to those who will come into contact with the offender. There are many other applicable examples dealing with drug charges, terroristic threats, stalking and any number of other crimes.

Senate Bill 513

I feel very strongly that a legislative change that will enable 16 and 17 year old offenders to be prosecuted for certain offenses as adults will be one of the major steps to gaining control over the problem of juvenile crime.

As I mentioned earlier we all read or see daily reports of serious crime committed by those under the age of 18. In Tuesday's Star it was a 16 year old from Kansas City Kansas who will serve a mere 10 months for shooting to death a 21 year old (the maximum under the current juvenile law). Wednesday it was several Prairie Village youths ages 15 through 17 charged with blackmail. Clearly these are not the status offenders that the current sentencing was

designed for. Neither are they immature and unaware children that should not be held accountable for their acts.

As a law enforcement official one thing I can tell you that you won't learn from media coverage is that not only are these young offenders aware of what they are doing, they are painfully aware of just what they can get by with while still falling under the juvenile code.

I have sat across the interview table with a number of young offenders who have looked me in the eye and bragged that they have planned their criminal activity to continue up until the day before they turn 18. They are wise to the system, know how to work it and are painfully aware of the difference in treatment they will receive if they are plugged into the adult system. This is a difference that begins the minute they are arrested. Picture yourself explaining to a person who has just been burglarized for the second time by her 16 year old neighbor, that the neighbor has been arrested with some of the property taken and has been charged with felony theft and burglary and released to his parents. And yes, now two hours later is the same person she can see through a window in his house next door playing video games, looking up occasionally and making an obscene gesture when he sees the neighbor at her window. I've had that experience and know that that offender and others like him should face the adult system.

Conclusion

I hope you agree with me that the serious and repeat juvenile offenders belong in a serious justice system that has changed with the times and can deal with them effectively.

We are now at a point where we are not dealing with children gone slightly awry, we are dealing with individuals proficient in committing serious crimes. Many are carrying weapons and using them in the commission of armed robberies, aggravated assaults and batteries and even homicides. A large number are involved in selling drugs, stealing cars and are well versed in the ways of intimidation.

It is time to rethink the system and develop a system that protects and effects healthy changes in non-serious juvenile offenders but will not protect those who commit serious offenses.

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Hon. Judicial District of Kansas

Franklin County
Court Building

3rd and Main
Ottawa, KS 66067
(913) 242-5433
(913) 242-5970 (Fax)



Anderson County
Coffey County
Franklin County
Osage County

Court Services

January 27, 1994

Honorable Jerry Moran
Kansas Senator
State Capitol
Topeka, Kansas 66612

Dear Senator Moran,

Please accept this testimony regarding SB 500, 501, 512, 513 and Juvenile Boot Camps. During the process of preparing this testimony, I contacted several Court Services Officers regarding these issues and their feedback is incorporated into my remarks. I welcome any questions regarding this testimony and look forward to following these bills.

Please give me a call if you or any member of your committee have questions or desire additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark G. Gleeson".

Mark G. Gleeson
Chief Court Services Officer
KACSO Legislative Chairperson

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Testimony to Senate Judiciary Committee
Thursday, January 27, 1994

Senate Bills 500; 501; 502; 512; 513 & Juvenile Boot Camps

Testimony developed and provided by Mark G. Gleeson, Legislative Chairperson, Kansas Association of Court Services Officers.

Thank you for including me on your schedule today. My name is Mark Gleeson. I am the Chief Court Services Officer for the Fourth Judicial District and the Chairperson for the Kansas Association of Court Services Officers Legislative Committee.

Senate Bill 500: In concept we strongly endorse SB 500 which establishes a new crime for a juvenile in possession of a firearm the a barrel less than 12 inches long. Court Services Officers have long been concerned about violence in our communities, on our streets and in our offices. We support revoking driving privileges as a consequence to conviction. We support the exceptions which consider the lawful and responsible use of firearms.

Our primary concern with this bill is that prosecution is managed through the adult system. Considering the overcrowding in jails and juvenile detention facilities, it does not appear prudent to prosecute these offenders through the adult system. Kansas currently has a process to waive juveniles to the adult system which is widely utilized and we would recommend that this discretion not be removed from the judiciary on this particular offense. I would also point out that there are no other criminal offenses which are automatically prosecuted through the adult system based solely on the nature of the offense. In addition, it is not possible to waive the prosecution of a juvenile to adult criminal court on a misdemeanor offense. Based on these factors, placing a youth in the adult criminal justice system on this particular offense does not seem reasonable compared to other offenses and judicial processes.

Senate Bill 501: We support any and all efforts to encourage parents and guardians of juveniles to be responsible for them. We support SB 501. Our only issue with this particular bill is for you to recognize that there is a work load impact on the County and District Attorney as well as the Court system in the notification of parents, guardians, or persons with whom the juvenile is residing. This notification requirement could cause some delays in the processing of the juvenile docket.

Senate Bill 502: SB 502 opens the official file of youths charged as juvenile offenders and who are 14 or more years of age. It also requires that the official file contain "arrest records". We oppose opening the official file of persons who are 14 or 15 years of age prior to adjudication. We understand the

interests of the public to be informed but we also respect the privacy of youths and their families. We request that any disclosure of the official file be restricted to those matters which result in an adjudication.

We would also request that the reference to "arrest records" be defined as only those arrest records which pertain to the alleged complaint. Further, we believe the District or County Attorney should be responsible for providing the arrest record at the time the complaint is filed. Finally, what actually comprises the arrest record may need to be clarified.

Senate Bill 512: Simply, "Yeah"! We welcome all efforts which aid our collection of restitution for victims. We would ask that this be expanded further to allow the court to enter as a civil judgement any unpaid restitution at the end of the probation period or following a period established by the court for the full payment of restitution. This would allow for the victim to recover costs through garnishment of wages and other methods of recourse not currently available at the time the disposition is entered.

We would also ask that all costs be payable by credit card. All districts currently can accept credit card payment for filing fees when filing by fax. Placing another method of payment before the offender, adult and juvenile, would provide for one less excuse for why the offender has not or cannot pay costs or restitution.

Senate Bill 513: This bill essentially lowers the age for prosecution as an adult to any person 16 years of age or older who is charged with a person felony or person misdemeanor offense. We understand the rationale and impetus behind this bill. We oppose this bill based on the limitations it places on the court. We also oppose this bill because it does not address the question of public safety as it is presumably meant to do. We oppose this bill because it simplistically shifts the financial responsibility from an overburdened juvenile justice system to an overburdened adult criminal justice system. It does not address in any manner the pressing need for improved public safety or for control and treatment of offenders. The Kansas Association of Court Services Officers is particularly opposed to the blanket prosecution of juveniles through the adult criminal justice system for person misdemeanor offenses.

Presently, two waiver processes exist which allow opportunities for adult prosecution of juveniles. One is based on prior felony records and automatically places a youth who is 16 or 17 years of age in the adult system if he/she has two prior felony convictions. The second allows the court to place a youth in the adult system based on crime seriousness, lack of appropriate juvenile resources and a variety of other factors.

We believe these two processes offer reasonable avenues to move a youth to the adult system based on the judgement of the court and the requests of prosecution.

Juvenile Boot Camp: Although not in bill form at the present time, there has been considerable discussion and debate regarding the development of "boot camps" for juvenile offenders. The Kansas Association of Court Services Officers is taking a position opposing boot camps for juvenile offenders based on the following factors:

1. After care resources do not exist for juveniles upon completion of the boot camp program. Without appropriate and adequate aftercare supervision, the positive skills traditionally taught and nurtured in adult boot camps (independence, job training, self discipline) cannot be utilized by the youth upon release from the program.
2. Leadership skills, physical training, and connections with other serious offenders developed during a boot camp program potentially create a youth who is more dangerous and difficult to manage on the street than a youth who does not have those skills.
3. Youth Center programs are not a sufficient deterrent to provide a reasonable consequence if a youth fails a boot camp program.
4. There is little evidence that boot camps are significantly more effective than traditional prison experiences in the rehabilitation of adult offenders.

Efforts and financing could be better spent on improving youth programming for serious and violent offenders, community based programs for non violent offenders, day reporting centers, "alternative schools", electronic monitoring, drug testing and treatment, and community based residential programs to assist with independent living. It is also important to examine prevention programs such as those recommended by the Joint Committee on Children and Families for early intervention into family difficulties as long term investments into the reduction of criminal behavior.

We appreciate your interest in juvenile programs and believe that boot camps are one component which, when other community based resources are in place, could be a resource for the court, communities and youth. Now is not the time, however, since resources necessary to provide community based support for skills and values taught in boot camps do not exist.

Thank you for listening. Good luck as you continue your struggle with these issues. I stand for questions.

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TESTIMONY OF JOSEPH P. HUERTER ON S.B. 513 1/27/94

My name is Joe Huertter, and I am an attorney in private practice in Topeka. I also was a guardian ad litem and court appointed defense attorney in the juvenile court of Shawnee County, Kansas for over seven years, handling several thousand juvenile cases. In that length of time you get to know a lot of the kids from all over our community and you get to know their families. You also get to know that what works for one kid and one family may not work with the next.

The bill that is before you is a sincere effort, but is not a solution. In fact, it will have the opposite effect from that which is desired.

As written it removes discretion from the Judges on the issue of certification of a minor to stand trial as an adult. To do so is to waste a valuable asset - the wisdom of our judiciary. And to create circumstances not intended nor wanted. The bill deals with person felonies and misdemeanors. I have always found examples to be helpful when looking at any issue. I will start with a person misdemeanor, battery. One of the most common offenses to come through juvenile court is battery, and most often they come from school or school events. A young person becomes angry at school, a shouting match ensues with a teacher. the teacher tries to calm the student down, and the student pushes the teacher away. He will be charged with battery. The local schools have a zero tolerance policy for students laying a hand on a teacher, and that is appropriate. That young person will go before the juvenile court, he will be screened by a court services officer, his family will be looked at and probably interviewed. We may look for an educational evaluation to find out why this kid is so frustrated in school, we may send him to anger management counseling, or even inpatient psychological evaluation is warranted. He may be placed in foster care or even a group home is his own home lacks the structure that is needed. Under this bill, he would face a 6 month jail term or a fine. And in this county at least, there are too many cases to put first time battery cases in jail. He would be placed on 6 months probation and told not to violate the law again.

But lets look at felonies. I want to tell you of one case I handled in our local court. I will call him Mark, that's not his name. Mark was a young man who in the course of about two years had experienced the death of his grandmother, his father and his baby sister. He was from a mixed-race family. His mother was white. By all appearances he was African-American. This caused friction with some extended family and with others in the community. But Mark stayed in school, on the honor roll, and working after school and on weekends to help support his mother, who

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was disabled. Mark was a big kid, and the gangs wanted him. He was stalked and beaten and threatened regularly along with some of his friends. You are often literally beaten into a gang. Finally these kid had enough, and out of fear and stupidity, they got a gun. They banded together and went to look for one of the gang members. Their plan was to threaten this gang-banger to avoid further harassment. Unfortunately when they found him he was not alone. A much more violent individual was with him. A gang-banger with a brother serving time for murder. This gang-banger reached for his waistband, Mark assumed his was going for a gun. Mark grabbed his gun from the glove box, pointed it out the window, closed his eyes, ducked his head and fired two shots as he tried to drive away. One shot hit the other kid in the shoulder. Mark was charged with attempted murder. Our system sent him to an inpatient, secure facility for evaluation. He did so well there that the hospital asked to keep him longer to finish his work. He then entered a plea to aggravated battery and was sent to a group home facility with a campus and school facilities. He thrived. He came out of his depression. We moved his mother closer to him and he was able to spend weekends with her. He got glowing reports, good grades, played sports, and was released from court supervision after several months. This spring he will graduate and hopes to follow his fathers footsteps and has applied to enlist in the Army. The system worked.

That is not to say the system can't be improved. In my experience most motions to certify are granted. The state exercises its discretion on when to seek certification. But perhaps if you believe there are some individuals who should be facing adult prosecution but are not I have a recommendation. Require the court in all cases of person offenses make a determination if the child should face adult prosecution. That would screen all cases, and not leave the issue in the hands of prosecutors to determine when they will seek to certify a respondent. We have caring, capable and competent judges across this state. Let them do their jobs. We will all be better served.



BOARD OF INDIGENTS' DEFENSE SERVICES

LANDON STATE OFFICE BUILDING
800 JACKSON, ROOM 304
TOPEKA, KANSAS 66612-1255

(913) 296-4505

January 25, 1994

Gloria Timmer, Director
Division of the Budget
Statehouse
Topeka, Kansas 66612

RE: Fiscal Impact of Senate Bill No. 513

Dear Ms. Timmer:

Senate Bill No. 513 provides that persons 16 years of age and older will be prosecuted as adults for all misdemeanors and felonies. Previously, those offenders under 18, except those specifically adjudicated as adults, were processed through the juvenile offender statutes.

Senate Bill 513 will dramatically increase the workload of this agency. Our fiscal impact estimate for both trial and appellate workload is \$815,678. I have attached the detailed estimate of costs related to this bill. If you have questions, please call me or Melody Cathey, at 296-4505. Thank you.

Sincerely,

Ronald E. Miles
Ronald E. Miles
Director

cc: Legislative Research Dept.

REM:ja

Senate Judiciary
Jan. 27, 1994
Attachment # 5

AGENCY SUMMARY
FISCAL IMPACT OF SENATE BILL No. 513
SHIFTING JUVENILE OFFENDERS INTO ADULT SYSTEM

Assumptions

- BIDS will retain present system of assigned counsel & public defenders.
- Juveniles committing defined offenses will be consistent with 1992 KBI statistics on juveniles arrested for offenses¹
- 10% of felony offenders are already represented by BIDS²
- **Costs per trial case will be \$584.00.**³
- 8% of the cases will be appealed at \$750.00 each.⁴

SB 513 **\$815,678.00**

- Persons 16 years and older committing person offenses are prosecuted as adults.

Costs of trial level defense: \$739,928.00

1408 person felony arrests of 16 & 17 year olds during 1992.

50/50 split assigned counsel/public defender representation is \$585.00 average cost per case.

90% or 1267 cases will impact BIDS.

Costs of appellate defense: \$75,750.00

8% or 101 cases will be appealed.

Appeals are limited to the regulatory \$750.00 fee each.

The Board of Indigents' Defense Services is responsible for providing defense services to adults accused of committing felonies in Kansas. Currently, 16 and 17 year olds are not served unless waived into the adult system through a court proceeding. It is estimated that 10% of the relevant cases filed are currently waived into the adult system. The Senate Bill would bring 1267 additional trial cases and 101 additional appeals into the adult defense system services by BIDS.

¹ Assumption #1 does not take into account the unusually high number of violent offenses by juveniles which generated legislative concern, which could easily double or triple these figures.

² Assumption #2 is based on subjective experience of former and current defense attorneys, representing both juveniles and adult offenders.

³ Assumption #3 is predicated on offenses being distributed evenly between rural counties and urban counties. It is likely that more offenses will occur in public defender served urban areas, which would make the cost per case lower, however, offenses related to gang activity, requiring more conflict counsel than usual will be used, canceling out the effect.

⁴ Assumption #4 is based on current percentage of appeal case versus trial case load.

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

Senate Judiciary Committee
Testimony on Senate Bill 512

January 26, 1994

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 concerning children; relating to restitution; liability of parents and guardians for certain acts of children; amending K.S.A. 38-1663 and 38-120 and repealing the existing sections.

Mr. Chairman, I am pleased to provide you with this testimony which the Department supports in part.

PURPOSE

The primary purpose of this bill is to allow a court to order the parent, guardian or legal custodian of the juvenile to make restitution pursuant to the terms set forth by the court.

EFFECT OF PASSAGE

This amendment to the Juvenile Offender Code does not preclude a district court from ordering the Secretary of Social and Rehabilitation Services to share responsibility with a juvenile offender for payment of restitution as the legal custodian of the offender. In addition, youth directly committed to a youth center are placed in the custody of the youth center superintendent. This amendment does not preclude a district court from ordering the youth center superintendent to share responsibility with a juvenile offender for payment of restitution as the legal custodian of the offender.

*Senate Judiciary
attachment 5-1
1-27-94*