

Approved: 3-23-94
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Jerry Moran at 10:00 a.m. on March 15, 1994 in Room 514-S of the Capitol.

All members were present.

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

Conferees appearing before the committee:

Robert Wunsch, University of Kansas Medical Center
George Barbee, Kansas Association of Financial Services
Jim Clark, Kansas County and District Attorneys
Melissa Ness, Kansas Children's Service League
Bruce Linhos, Kansas Association of Licensed Private Child Care Agencies
Ben Coates

Others attending: See attached list

HB 2990--repealing statute requiring service of process upon the secretary of state

Robert Wunsch, University of Kansas Medical Center testified in support of HB 2990 and provided written testimony (Attachment No. 1). He said this bill would repeal K.S.A. 75-418, which permits service of process upon a state agency by serving the Secretary of State.

HB 2678--copies to prove content of business and public records

George Barbee, Kansas Association of Financial Services testified in support of HB 2678 and provided written testimony (Attachment No. 2).

A motion was made by Senator Martin, seconded by Senator Petty to report HB 2678 favorably and place on the consent calendar. The motion carried.

Chairman Moran assigned SB 701 and SB 745 to the Criminal Law Subcommittee. Chairman Moran asked that Senator Bond, Senator Parkinson, and Senator Rock to be included on the Criminal Law Subcommittee to consider SB 701 and SB 745. Chairman Moran also assigned Sub. 2328 to the Criminal Law Subcommittee.

It was announced that the William I. Koch Commission on Crime Reduction and Prevention will give a report and answer questions from the Committee on Wednesday at 7:00 p.m. in Room 313-S, State Capitol.

SB 730--creating the Kansas children and youth authority

Jim Clark, Kansas County and District Attorneys testified in support of SB 730 and provided written testimony (Attachment No. 3).

Melissa Ness, Kansas Children's Service League testified in regard to SB 730 and provided written testimony (Attachment No. 4). She recommended an interim study on the feasibility of separating the current children and youth programming from the Department of Social and Rehabilitation Services.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY, Room 514-S Statehouse, at 10:00 a.m. on March 15, 1994.

Bruce Linhos Kansas Association of Licensed Private Child Care Agencies testified in regard to SB 730 and provided written testimony (Attachment No. 5)

Ben Coats testified in regard to research he had done involving 290 children in custody of Social and Rehabilitation Services, 205 of which were children in need of care and 84 were juvenile offenders. He said they found from this study that, 1) there was very little difference in children in need of care and juvenile offenders, except children in need of care were younger; 2) 75% of those children in need of care went into custody of Social and Rehabilitation Services without an advance hearing; 3) 25% of those children in need of care are adjudicated at a young age. He said he looked at 25 to 30 children's records who were in the youth centers and all had multiple placements over the years. The average number of placements for these children was 12, however, one 15 year old had 33 placements. He said children in need of care was a fragmented system.

HB 2599--amending who can withdraw blood in a DUI test

A motion was made by Senator Ranson, seconded by Senator Emert to report HB 2599 favorably and place on the consent calendar. The motion carried.

Senator Emert provided a Criminal Law Subcommittee report on HB 2579, SB 765, and SB 774. The subcommittee did not recommend HB 2579 and SB 765. He said SB 774 was recommended by the subcommittee for passage. The subcommittee recommended to remove all the provisions of HB 2579 and amend by inserting into HB 2579 a portion of SB 764 and insert all of SB 774.

A motion was made by Senator Ranson, seconded by Senator Vancrum to approve the Judiciary Committee minutes of February 23 and February 24, 1994. The motion carried.

The meeting adjourned at 11:00 a.m.

The next meeting is scheduled for March 16, 1994.

GUEST LIST

COMMITTEE:

Senate Judiciary

DATE:

3/15/94

NAME (Please Print)	ADDRESS	COMPANY/ORGANIZATION
Bruce Liles	Lawrence	KALPCCA
Bob Wunsch	Lawrence	KUAC
Matt Truell	Topeka	AD
George Barber	Topeka	KAFS
Fisa Moots	Topeka	KSC
Glenn Mann	Overland Park	LWVK
Catherine Caminelli	Topeka	KAMICO
John W Smith	Topeka	KDOR DMV
Jim Keller	Topeka	KDOR
Gene Johnson	Topeka	KASAP ASSN
Shannon Hobbs	Eureka	Sen. Petty
Lisa Unruh	Topeka	DOBS
Jan Johnson	Topeka	KDOC
Ben Conrad	Topeka	
Alan Zardi	Topeka	KWIC 90.3 FM
Paul Shelby	"	QTH
KEITH R Lewis	"	CHRISTIAN SERVICE Society ON PUBLICATION FOR KS
James Clark	"	KCDAA
Melissa Ness	Topeka	Ks Childrens Serv. League
Charlotte Hollimer	Lyons	Rice Co. Leadership
Bob R. Ransom	Lyons	Rice Co. "
Janet Bruce	Lyons, KS	Rice Co. Leadership
John Wagner	Sterling, KS	City of Sterling
Bert Pope	Lyons, KS	MANSCO
Carolyn Kisley	Topeka	SRS

#1

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE

HB 2990

ROBERT S. WUNSCH

February 17, 1994

Thank you, Mr. Chairman. My name is Robert Wunsch. I am appearing today on behalf of the University of Kansas Medical Center in support of House Bill 2990.

This bill repeals K.S.A. 75-418, an obscure statute which permits service of process upon a state agency by serving the Secretary of State.

Not too long ago, we had an experience which involved K.S.A. 75-418.

In *Balllou v. University of Kansas Medical Center, et al.*, plaintiff filed a sexual harassment and retaliation (Title VII) claim against the university in federal district court. Pursuant to the new federal rules, plaintiff served the two individually-named defendants by mail. Service upon the university, on the other hand, was effected by serving the secretary of state's office in person. Plaintiff's counsel had presumably discovered K.S.A. 75-418, instead of K.S.A. 60-304. Unfortunately, the secretary of state's office never provided the University's Legal Department with a copy of the complaint or even notification by phone that a lawsuit had been commenced. Had there been no individual defendants, we would have been unaware that the suit had been filed. Instead, the complaint was mailed by the secretary of state's office to the Medical Center, specifying no particular department and using a less than official address. This process caused the complaint to ultimately reach the Legal Department almost too late to respond. The Attorney General's office was not advised that a new lawsuit had been commenced against the state.

We have since spoken with the Attorney General's Office and they, in turn, have discussed this situation with the Secretary of State. The Secretary of State's office recognizes that it should have sent the complaint to the AG's office upon receipt. Our position is however, that there is no need for this confusion with respect to lawsuits against the University or any other state agency. K.S.A. 60-304 specifically requires the service of process on a state agency be affected by serving the Attorney General. As such, there is a conflict with K.S.A. 75-418, which permits service of process upon the secretary of state. House Bill 2990 is submitted to you to resolve this dilemma by eliminating the duplicity of service of process options. We think that K.S.A. 60-304 is certainly adequate and provides an orderly process for service of process on state agencies.

Thank you for allowing this matter to be heard before the committee. If there are any questions, I would be pleased to try to answer them.

Senate Judiciary
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attachment 1-1

#2

The Kansas Association of Financial Services

George Barbee, Executive Director
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STATEMENT TO:
Senate Judiciary Committee
March 15, 1994
HB 2678

Mr. Chairman and members of the committee my name is George Barbee appearing on behalf of the Kansas Association of Financial Services (KAFS). The membership of KAFS consists of large national and international finance companies with approximately 100 branch offices in Kansas.

These corporations have accounts receivable that are as high as 32 billion dollars for the largest corporations. You can imagine the massive amounts of records that must be retained for these credit accounts. To manage this enormous task the companies are turning to new technology in the form of optical imaging.

This allows original documents to be scanned and transferred by laser to a disk for permanent filing. The disk stores documents without the ability for them to be altered. The document cannot be erased and the unaltered document can be retrieved and reproduced at a later time. This is obviously much more efficient than manual filing and retrieval of documents.

This bill would update present civil procedure statutes dealing with admissible evidence by amending the statute to allow documents produced from optical imaging equipment to be treated with the same legal standing as microfilm, microcard, photostatic, and miniature photographic copies.

The amendment is specific in adding language that this is "non-erasable optical image reproduction provided that additions, deletions or changes to the original document are not permitted by the technology". I do not think this is a controversial issue and would ask that you report this bill favorably and furthermore to consider placing it on the consent calendar.

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Testimony in Support of

SENATE BILL NO. 730

The Kansas County and District Attorneys Association appears in support of SB 730, which creates a separate authority to review and evaluate services to our youth and creates a separate children and youth state agency with a cabinet-level secretary. The bill is a step toward what many of us think are serious shortcomings in government at all levels: the inability to protect citizens from crime and the neglect of our youth. Many indicators suggest the two areas are substantially intertwined.

Your attention is called to the recommendations of The Juvenile Offender Policy Conference, which was held on September 7 and 8, 1989. Approximately 200 conferees from across Kansas attended the conference, and in spite of a diversity ranging from prosecutors to judges to child advocates to interested citizens, they all agreed on six recommended changes in juvenile offender policy. The first of those was to establish a separate cabinet-level Youth Authority. SB 730 is an effort to act on that recommendation.

Another reason to support the bill arises out of recent efforts to "reinvent" government. An examination of the nature of government and how it works recognizes that government entities work better when they have a single mission. At the present time, juvenile issues, other than education, are almost exclusively under the domain of the Department of Social and Rehabilitation Services, which has a huge area of responsibility in many other areas. Of necessity that agency deals primarily with services to those who fall between the cracks. A more forward looking policy on youth should focus on prevention from falling. A separate agency with a limited, but far-reaching, scope would be much more effective in both the recognition and improvement of services to children and youth, and indirectly, would address the public safety issue of juvenile crime.

The bill is more far-reaching than HB 2707, which although similarly structured, concentrates on juvenile offenders. While perhaps more effective in the short run, that bill does not recognize the relationship between crime and neglect of our children.

The creation of a separate children and youth authority expresses not only a concern for the future of our country, but focuses on that future: our children.

Senate Judiciary
3-15-94
Attachment 3-1



Kansas
Children's
Service League

TESTIMONY BEFORE THE SENATE JUDICIARY
RE: SB 730 Creating the Kansas children and youth authority

March 15, 1994

Submitted by: Kansas Children's Service League

I start seeing 14-and 15-year olds come through the system [who] have committed horrible crimes, and I start looking at why they did it...I suddenly see a child born to a crack-addicted mother, a child who has tried to help raise his four younger siblings, a child who has never known his father, a child who has bounced from one family member to another, a child who is on the verge of dropping out of school if he hasn't dropped out of school and it breaks your heart. And you know that if society had intervened at an earlier date and a given that child a constructive chance at a safe...and positive environment...There has got to be a balance between punishment that means what is says, that is carried out, that is expected, with a real opportunity for the children of America to grow in a world free of violence.

Testimony of the Honorable Janet Reno before the Senate Judiciary Committee, March 9, 1993.

"My name is William. For those who don't know me, my case number is J-957439. That way you can look me up...they [told] me I was a foster kid for the first time. So you look it up in the dictionary, and it's a substitute for something. So...you're 13, you're thinking, I'm a substitute for a kid. I mean, I'm not a kid anymore, I'm only a substitute for it.

National Commission on Children, Beyond Rhetoric: A new American Agenda for Children and Families (1991)

KANSAS CHILDREN'S SERVICE LEAGUE is a statewide agency whose mission is to "promote the well-being of children by strengthening the quality of their family life through the provision of prevention, early intervention, treatment, advocacy and placement services".¹

Many, if not most, of the children we serve have some contact with the court or child welfare system. As public debate escalates there is an increasing sense of urgency to redefine not only programs but the service delivery system. With that in mind we are hear to present our thoughts on the establishment of a Kansas children and youth authority.

ISSUE

Could the children currently being served by our child welfare and juvenile offender system by better served if those systems functioned outside of the present SRS structure?

This clearly is not a question that can be fully answered in this setting. However, there is growing interest among those of us who provide services to children and families in looking at alternatives to the current structure.

¹ The League is a Charter member of the Child Welfare league of America, is accredited by the Council on Accreditation of Service for Children and Families, a member of the Ks. Association of Licensed Private Child Care Agencies, the Coalition for America's Children and a founding member of the Children's Coalition.

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100 YEARS
OF SERVICE
TO CHILDREN



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attachment 4-1*

PROBLEM

Are children getting the services they need in a timely manner? Are the policy changes implemented over the last three years on course? We need only to look around this session, at the numerous pieces of legislation aimed at curbing juvenile crime, code changes regarding children coming into care, time limits on children in temporary custody etc., to understand that the public, advocates, and legislators alike are struggling with "Is there a better way?" It is a question that should threaten none of us and a question that deserves attention. In looking at alternative structures, the following qualities should be given due consideration:

- **A focus on prevention.** Priority should be given to fund preventive programs designed to reach vulnerable families before children are hurt. Families should be able to access services before they are in crisis and are labelled neglectful or abusive. The system should be designed to respond promptly to the needs of children who do not neatly fit into the artificial lines that divide current agency responsibilities.
- **Providing Families in Crisis with Comprehensive Services.** Children who have been abused and neglected need high quality intensive services. Families in crisis are currently met with a service system that is all too often too hard to navigate.
- **A comprehensive definition of what constitutes reasonable efforts.** Regulations should define a set of services that should be available, as needed, to families that qualify for those services within a set period of time.
- **A review of uniform standard around coercive interventions into families.** Decisions to remove children from their homes whether temporarily or permanently--are among the most important decisions social workers and judges can make. All professionals in this system having the power to separate children from their parents must be guided by a deep understanding of children's developmental needs.
- **Improve the Foster Care system.** We must guarantee there is a range of services and supports while the child is out of his or her home. Research about children in the foster care system is urgently needed. We need to look closely at our data base needs. In order to evaluate whether programs are effective, ready access about the population you are serving is critical.
- **Promotion of Adoption.** There are approximately 559 children in our state system whose parental rights have been severed and are waiting for permanent homes. The cost of care discourages families from adopting these children. Adoption assistance programs remove disincentives and provide the support families need. (It has been estimated that placement of 40,700 foster children with special needs into adoptive homes between 1983 and 1997 would save \$1.6 billion in administrative costs alone over the course of the child's lives.)

These are all reflective of a system that demands flexibility. The question is whether our current system so impairs this ability as to render it ineffective in the long haul.

RECOMMENDATION

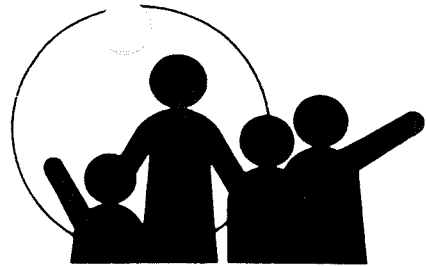
At this juncture, we recommend a serious debate or interim study on the feasibility of separating the current children and youth programming from the Department of SRS. **Questions for review include:** Costs associated over time, with the removal of youth related programs from SRS?; What will our ability be to maximize federal dollars?; Will it enhance interagency coordination?; Should child welfare and juvenile offender programs be privatized and monitored by the state?; Has the size of the current bureaucracy impeded the implementation of policy and programs so needed by this population?

We request this committee take the leadership in setting the stage for this debate to occur.

Presented by: Melissa Ness JD,MSW

KALPCCA

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Testimony

Senate Judiciary Committee

March 15, 1994

Senate Bill 730

I appreciate the opportunity to appear before the Senate Judiciary Committee this morning to talk with you about Senate Bill 730. The Kansas Association of Licensed Private Child Care Agencies is comprised of private not-for-profit community based agencies which serve children referred by SRS. The vast majority of children served by our members are in the states' custody. While these private agencies provide foster care and residential treatment services to some of the states' neediest children, these same agencies also provide a broad array of non-residential services to children and families. These services include such things as; family preservation, attendant care, juvenile intake, day treatment, run away services, special school services and family counseling.

Senate Bill 730 speaks to the need for Kansas to enter into a serious debate about the states' provision of services to children and youth. This years legislature and more specifically this committee has seen a deluge of bills attempting to address services to young people labeled as either Juvenile Offenders or Children in Need of Care.

While I believe there are many ways to insure services to our children, I have grown increasingly concerned that children and the interests of our future generation are getting lost as a part of one of our states largest bureaucracies. Supporting this concern is the fact that during nearly six weeks of sub-committee work on the SRS appropriations bill in the House, the sub-committee struggled with issues of medical services and long term care almost exclusively. Non medical services including children, drugs and alcohol, rehabilitation services and administration shared less that one week of sub-committee study.

Children, the true infrastructure of our state are playing second fiddle to over-runs and growth in other areas of the SRS budget. I believe that if children are to receive the attention we all want, then a cabinet level position responsible only for children and youth is the direction our thinking must take.

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attached 5-1*

I have been concerned with some of the Youth Authority bills that have been introduced this session which seek to separate Juvenile Offenders from Children in Need of Care. I am most encouraged by the fact that S.B. 730 creates a Youth Authority which will serve both CINC's and J.O.'s. While the services delivered to these two groups in many cases should be different, separating the groups into different systems will only cause further fragmentation in an already fragmented system.

I have not historically supported the creation of yet another bureaucracy for obvious reasons. Resources to serve children are already seriously limited without spending a portion of those funds on duplicate administrative structures. S.B. 730 seems to assume a relative fiscal neutrality by shifting necessary components of children services from SRS as well as the attendant funding for those services.

Such a shift in the bureaucracy would certainly not come without pain. The idea of a Youth Authority represents a major systems change. Perhaps it's time to seriously consider this idea and not simply be deterred by the scope of such a proposal. What we really must consider is what is best for the children we are trying to serve.

Bruce Linhos
March 15, 1993