The Kansas District Judges' Association

SENATE JUDICIARY COMMITTEE

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WRITTEN TESTIMONY IN OPPOSITION TO SENATE BILL 321

Thank you for the opportunity to testify in opposition to portions of this bill. My name is Merlin G. Wheeler, and I am the Chief Judge of the Fifth Judicial District (Lyon and Chase Counties) and a member of the Legislative Committee of the Kansas District Judges Association. I am joined on that committee by the Hon. Glenn Braun, Chief Judge of the 23rd Judicial District; Hon. Thomas Kelly Ryan, District Judge in the 10th Judicial District; Hon. Amy Hanley, District Judge in the 7th Judicial District; and, Hon. Kim Cudney, KDJA President and Chief Judge of the 12th Judicial District.

Our collective experience in handling proceedings under the Kansas Juvenile Justice Code is that the use of restraints during hearings is by far the exception to the normal practice and does not generally occur absent a demonstrated need. We are aware that there may be claimed examples of unnecessary use of restraints but ask you to consider that those may have come from incomplete points of view or because of viewer bias. We also ask you to consider that we deal with a very wide range of offenses under this code which may include murder, serious sex offenses, and drug offenses in addition to what are often considered more minor matters.

Passage of this bill, because it requires separate hearings and written findings of fact to support use of restraints, will undoubtedly cause further expense to the Judicial Branch as well as additional prosecution and defense costs. (Here I would interject that that majority of criminal defense costs in juvenile offender cases are paid by our counties due to the indigent status of the parties.) In addition to additional expense, having to conduct separate hearings following notice will have other negative consequences.

Prior to authorizing use of restraints, the bill requires a court to conduct a hearing and make written findings in support of an order to allow restraints. This has the effect of interjecting yet another step in the

process. The requirement of written findings only ensures further delays to enable a court to make that writing. Should the behavior justify use of any restraint occur during a hearing where the alleged offender is not already subject to restraint—which is often the case—compliance with this new section would mandate a complete interruption to accomplish not only the hearing, but the writing of the findings of a court. We suggest, at the very least, that New Section 1(b)(4)(A) be eliminated in its entirety. New Section 1 (b)(1) already requires findings to be made on the record which is sufficient for any appellate review of a trial court decision.

In summary, we ask that this Committee not consider this bill favorably because it is unnecessary considering our normal practices regarding the behavior of alleged juvenile offenders and would cause needless expense.

Respectfully submitted on behalf of KDJA,

Merlin G. Wheeler, Chief Judge, 5th Judicial District.

Hon. Thomas Kelly Ryan, District Judge, 10th Judicial District.

Glenn R. Braun, Chief Judge, 23rd Judicial District.

Hon. Amy Hanley, District Judge, 7th Judicial District

Kim Cudney, Chief Judge, 12th Judicial District