

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

Held in Room 522, at the Statehouse at 3:30 ~~xxx~~ p. m., on February 23, 1978.

All members were present except: Representatives Foster and Hoagland, who were excused.

The next meeting of the Committee will be held at on call ~~xxxxxx~~, on February 24, 1978.

These minutes of the meeting held on _____, 19____ were considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

The meeting was called to order by the Chairman who announced the Committee would be reviewing the Community Corrections proposal. He suggested the committee would review it and then Secretary Marquez would make some remarks.

Mr. Paul Purcell distributed copies of the proposal, and discussed the ramifications of the changes. In particular, he noted the proposal would allow community groups to organize but would not permit crossing judicial lines. The proposal provides for review for the County Commissioners prior to submission of an application to the Secretary of Corrections.

Rep. Lorentz inquired how the funds are administered, and Mr. Marlon Rein of the Research Department explained the draft deals with appointment and responsibilities of the board in a later section.

The Chairman noted the interim committee and the special study committee had spent over 200 hours studying and discussing the proposal, and that subcommittees had added still more time to the study. He explained this is a very comprehensive Act, which is based on the Minnesota concept; that there was a bill in the Senate last year along these lines and they had started with that bill, making modifications to fit the Kansas situation.

Rep. Hurley pointed out the Department of Corrections would be the monitoring agency; that the local people would draft a plan and submit it to the Secretary; and if approved, the budget would go through the Department of Corrections.

Secretary Marquez pointed out this is a major policy change for Kansas, and he hoped the issue wouldn't arise as it did last year, concerning what community corrections meant. He explained individuals are going to be released on probation or parole anyway, and they will be returning to the local communities whether or not there is an organization or facilities to make their transition smooth. Further, he explained this concept will provide guidance for the individual which has not been available in the past.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

He expressed some concern that moving out on this program immediately might cause problems in the communities because the people need time for education so they will realize how the program is going to work.

Rep. Hayes inquired how much this program would cost as versus the present operation under the Secretary of Corrections. Mr. Hurley explained the cost depends upon the number of communities applying, and which are approved. He noted the ultimate decision rests with the Secretary.

Secretary Marquez recommended juveniles should be taken out of the Act because it would be difficult to set standards and guidelines for juveniles under the jurisdiction of SRS. He explained he has enough problems with the adults. Rep. Hurley stated the subcommittee agrees but that ultimately they feel the juveniles should be shifted to the Department of Corrections.

Rep. Martin noted the interim committee recommended a legislative committee to oversee the program, so there would be legislative input.

In discussing costs and budget, Mr. Rein stated the study committee determined there would need to be some additional staff which the \$1.6 million dollars does not speak to.

The Chairman called attention to HB 2712, which had been previously reviewed as a substitute bill. Rep. Martin suggested there is some problem with the section regarding the authority of the Department of Corrections to make recommendations to the Adult Authority. The Chairman stated he felt it could be handled with a conceptual motion, to take care of the previous or habitual offender to make sure he is not eligible for parole in 120 days, but would be required to serve the entire minimum, plus good time.

Rep. Martin stated it looked as if the separation date now in effect would be the way the new system would operate, and explained the interim committee had considered some definite sentencing to make the penalties more equal. He moved to strike provisions granting the authority presently in the law and give the Department permission to make recommendations to the Adult Authority, as shown on pages 14 and 16. Motion was seconded by Rep. Frey.

Rep. Roth noted he would vote against the amendment because he believed it would only be used on rare occasions, which would defeat the purpose. Rep. Hayes stated he felt it would be illogical to think the sentencing judge would reduce the sentence which he had already imposed. The Chairman pointed out he has the authority to modify during the first 120 days anyway. Upon vote, motion lost.

Rep. Frey offered a conceptual motion regarding mandatory physical and mental examinations in the presentence investigation as shown on page 7. He explained he wanted to change the wording to make it clear if the judge determines it would be beneficial to have such examination, it can be ordered. Motion was seconded by Rep. Roth, and upon vote, carried.

Rep. Lorentz stated he had a problem with the disclosure provision on the results of the diagnostic report. He moved conceptually that such report not be denied to the defendant and defendants counsel. Motion was seconded by Rep. Hayes, and carried. It was then moved by Rep. Hurley and seconded by Rep. Martin that Substitute for HB 2712, as amended, be recommended for passage.

Mr. Griggs stated the Secretary had one question regarding Rules and Regulations, and that it had been worked out and was included in the draft. Rep. Hurley and Rep. Martin agreed they had intended this be noted in the motion. Upon vote, motion carried.

The Chairman called attention to HCR 5061 and explained it calls for an interim study on the treatment and detention of juveniles. It was moved by Rep. Hurley and seconded by Rep. Hayes that the Resolution be recommended for adoption. Motion carried.

The Chairman called attention to HB 3130, which deals with pre-trial diversion. He noted it is now practiced in a number of counties, and while this bill does not mandate it, permission is given. It was moved by Rep. Hurley and seconded by Rep. Lorentz that the bill be recommended favorably. Upon vote, motion carried.

Rep. Hurley explained HB 3129 establishes authority for District Courts to establish programs which are called release on recognizance, supervised release, et al, if the judge wishes to initiate such a program. He explained they would start an immediate evaluation so the judge will have information at the time of arraignment. It was moved by Rep. Hurley and seconded by Rep. Lorentz that the bill be recommended favorably, with the effective date shown as January, 1979. Motion carried.

Rep. Hurley called attention to HB 3118 and stated the Secretary of Corrections has agreed with the balloon amendment which was distributed by Mr. Griggs, and appears as discussed by Jim Wilson. It was moved by Rep. Hurley and seconded by Rep. Hayes, that the balloon amendments be adopted. Motion carried. It was then moved by Rep. Hurley and seconded by Rep. Hayes that the bill as amended, be recommended favorably. Motion carried.

Rep. Hurley called attention to the proposed balloon amendment to HB 3133, and stated the Secretary felt the committee established in the bill might be too large, so the subcommittee had clarified it. He noted the manufacture and sale of prison produced goods is a major thing. It was moved by Rep. Hurley and seconded by Rep. Stites that the balloon amendments be adopted. Motion carried. Thereupon, it was moved by Rep. Hurley and seconded by Rep. Stites that the bill, as amended, be recommended favorably. Motion carried.

With regard to HB 3112, the Chairman called attention to the wording of the bill and the fact that Riley County had requested an amendment to take care of their unique situation of a combined County-City law enforcement system. It was moved by Rep. Hurley and seconded by Rep. Matlack that the bill be amended to take care of that situation. Motion carried.

It was then moved by Rep. Hurley and seconded by Rep. Matlack that HB 3112 as amended, be recommended favorably. Motion carried with Rep. Frey voting in opposition.

The Chairman announced there would probably be one more meeting prior to the deadline for getting bills out of the House, and that it would be announced to occur probably before noon on February 24th.

The meeting was adjourned.

unprojected

PROPOSED Substitute for HOUSE BILL NO. 2712

For Consideration by House Judiciary

AN ACT relating to crimes; amending the Kansas criminal code and the Kansas code of criminal procedure; authorizing courts to fix the maximum term of imprisonment for certain felonies; concerning presentence investigations, conditions of probation, and parole eligibility and procedures; transferring certain functions and duties regarding probation and parole; concerning administrative rules and regulations of the department of corrections and the Kansas adult authority and membership on said authority; amending K.S.A. 21-4501, 21-4504, 21-4604, 21-4605, 21-4608, 22-3707, 75-5214, 75-5216, 75-5217, 75-5218, 75-5220, 75-5256, 75-5285, 77-415, 77-421 and 77-421a and K.S.A. 1977 Supp. 21-4603, 21-4610, 21-4611, 22-3717 and 38-814 and repealing the existing sections and also repealing K.S.A. 75-5215 and K.S.A. 1977 Supp. 38-551.

2-23

Be it enacted by the Legislature of the State of Kansas:

Section 1. On and after January 1, 1979, K.S.A. 21-4501 is hereby amended to read as follows: 21-4501. For the purpose of sentencing, the following classes of felonies and terms of imprisonment authorized for each class are established:

(a) Class A, the sentence for which shall be ~~death or imprisonment for life. If there is a jury trial the jury shall determine which punishment shall be inflicted. If there is a plea of guilty or if a jury trial is waived the court shall determine which punishment shall be inflicted and in so doing shall hear evidence;~~

(b) Class B, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be fixed by the court at not less than five (5) years nor more than fifteen (15) years and the maximum of which shall be fixed by the

court at not less than twenty (20) years nor more than life;

(c) Class C, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be fixed by the court at not less than one (1) year nor more than five (5) years and the maximum of which shall be fixed by the court at not less than ten (10) years nor more than twenty (20) years;

(d) Class D, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be fixed by the court at not less than one (1) year nor more than three (3) years and the maximum of which shall be fixed by the court at not less than five (5) years nor more than ten (10) years;

(e) Class E, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be one (1) year and the maximum of which shall be fixed by the court at not less than two (2) years nor more than five (5) years;

(f) Unclassified felonies, which shall include all crimes declared to be felonies without specification as to class, the sentence for which shall be in accordance with the sentence specified in the statute that defines the crime; if no sentence is provided in such law, the offender shall be sentenced as for a class E felony.

Sec. 2. On and after January 1, 1979, K.S.A. 21-4504 is hereby amended to read as follows: 21-4504. Every person convicted a second or more time of a felony, the punishment for which is confinement in the custody of the ~~director of penal institutions~~ secretary of corrections, upon motion of the prosecuting attorney, may be by the trial judge sentenced to an increased punishment as follows:

(1) If the defendant has previously been convicted of not more than one felony:

(a) The court may fix a minimum sentence of not less than the least nor more than twice the greatest minimum sentence authorized by K.S.A. ~~1972-Supp.~~ 21-4501, as amended, for the

crime for which the defendant stands convicted; and

(b) Such court may fix a maximum sentence of not less than the least nor more than twice the greatest maximum sentence provided by K.S.A. ~~1972-Supp.~~ 21-4501, as amended, for such crime ~~nor more than twice such maximum~~.

(2) If the defendant has previously been convicted of two (2) or more felonies:

(a) The court may fix a minimum sentence of not less than the least nor more than three times the greatest minimum sentence authorized by K.S.A. ~~1972-Supp.~~ 21-4501, as amended, for the crime for which the defendant stands convicted; and

(b) Such court may fix a maximum sentence of not less than the least nor more than three times the greatest maximum prescribed sentence provided by K.S.A. ~~1972-Supp.~~ 21-4501, as amended, for such crime, ~~nor more than life~~.

(3) Subsections (1) and (2) of this section shall be applicable only to those convicted criminals initially sentenced after ~~the effective date of this act~~ July 1, 1970. In the event that any defendant has been convicted prior to ~~the effective date of this act~~ said date and sentenced under K.S.A. 21-107a, and thereafter is for any reason returned to the court imposing the initial sentence, ~~he~~ the defendant shall be resentenced under the provisions of K.S.A. 21-107a as it existed prior to July 1, 1970.

(4) In the event that any portion of a sentence imposed under K.S.A. 21-107a, or under subsections (1) and (2) of this section, is determined to be invalid by any court because a prior felony conviction is itself invalid, upon resentencing the court may consider evidence of any other prior felony conviction that could have been utilized under K.S.A. 21-107a, or under subsections (1) and (2) of this section, at the time the original sentence was imposed, whether or not it was introduced at that time, except that if the defendant was originally sentenced as a second offender, ~~he~~ the defendant shall not be resentenced as a third offender.

(5) The provisions of this section shall not be applicable

to: (a) Any person convicted of a crime for which the punishment is confinement in the custody of the ~~director of penal institutions~~ secretary of corrections and where a prior conviction of a felony is a necessary element of such crime; or (b) any person convicted of a felony for which the punishment is confinement in the custody of the ~~director of penal institutions~~ secretary of corrections and where a prior conviction of such felony is considered in establishing the class of felony for which such person may be sentenced.

A judgment may be rendered pursuant to this section only after the court finds from competent evidence the fact of former convictions for felony committed by the prisoner, in or out of the state.

Sec. 3. On and after January 1, 1979, K.S.A. 1977 Supp. 21-4603 is hereby amended to read as follows: 21-4603. (1) Whenever any person has been found guilty of a crime ~~upon verdict or plea and a sentence of death is not imposed~~ and the court finds that an adequate presentence investigation cannot be conducted by resources available within the judicial district, including mental health centers and mental health clinics, the court may require that a presentence investigation be conducted by the Kansas state reception and diagnostic center or by the state security hospital. If such offender is sent to the Kansas state reception and diagnostic center or the state security hospital for a presentence investigation under this section, the ~~Kansas reception and diagnostic center~~ such institution or hospital may keep such person confined for a maximum of one hundred twenty (120) days or until the court calls for the return of such offender. The Kansas state reception and diagnostic center or the state security hospital shall compile a complete mental and physical evaluation of such offender and shall make its finding known to the court in the presentence report.

(2) Whenever any person has been found guilty of a crime ~~and a presentence report has been compiled and submitted to the court,~~ the court may adjudge any of the following:

(a) Commit the defendant to the custody of the secretary of corrections. or, if confinement is for a term less than one (1) year, to jail for the confinement for the term provided by law;

(b) Impose the fine applicable to the offense;

(c) Release the defendant on probation subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(d) Suspend the imposition of the sentence subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(e) Impose any appropriate combination of (a), (b), (c) and (d).

In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation the court shall direct that said defendant be under the supervision of ~~the secretary of corrections or the probation or parole officer of the court or county~~ a probation officer of the district court.

The court in committing a defendant to the custody of the secretary of corrections shall ~~not~~ fix a maximum term of confinement, ~~but the maximum term~~ within the limits provided by law ~~shall apply in each case.~~ In those cases where the law does not fix a maximum term of confinement for the crime for which the defendant was convicted, the court shall fix the maximum term of such confinement. In all cases where the defendant is committed to the custody of the secretary of corrections, the court shall fix the minimum term within the limits provided by law.

Any time within one hundred twenty (120) days after a sentence is imposed or within one hundred twenty (120) days after probation has been revoked, the court may modify such sentence or revocation of probation by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If an appeal is taken and determined adversely to the defendant, such sentence may be modified within one hundred twenty (120) days after the receipt by the clerk of the district

court of the mandate from the supreme court or court of appeals. The court may reduce the minimum term of confinement at any time before the expiration thereof when such reduction is recommended by the secretary of corrections and the court is satisfied that the best interests of the public will not be jeopardized and that the welfare of the inmate will be served by such reduction. The power here conferred upon the court includes the power to reduce such minimum below the statutory limit on the minimum term prescribed for the crime of which the inmate has been convicted. The recommendation of the secretary of corrections and the order of reduction shall be made in open court.

Dispositions which do not involve commitment to the custody of the secretary of corrections and commitments which are revoked within one hundred twenty (120) days shall not entail the loss by the defendant of any civil rights.

(3) At the time of committing an offender to the custody of the secretary of corrections the court shall ~~submit to said officer~~ state in the order of commitment the reasons for imposing the sentence as ordered, which may include a description of aggravating or mitigating circumstances the court took into consideration when ordering the commitment. Whenever a defendant has been convicted of a class A, B or C felony by reason of aiding, abetting, advising or counseling another to commit a crime or by reason of the principle provided for in subsection (2) of K.S.A. 21-3205, and any amendments thereto, the court shall state such fact in the order of commitment. In the commitment order the court also may include recommendations on a program of rehabilitation for said offender, based on presentence investigation reports, ~~medical and psychiatric evaluations~~ and any other information available. Such recommendations ~~shall~~ may include desirable treatment for correction of physical deformities or disfigurement that may, if possible, be corrected by medical or surgical procedures or by prosthesis. The court may recommend further evaluation at the Kansas state reception and diagnostic center, even though defendant was committed for

presentence ~~evaluation~~ investigation.

(4) This section shall not deprive the court of any authority conferred by any other section of Kansas Statutes Annotated to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(5) An application for or acceptance of probation or suspended sentence shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation or suspended sentence.

Sec. 4. On and after January 1, 1979, K.S.A. 21-4604 is hereby amended to read as follows: 21-4604. (1) Whenever a defendant is convicted of a ~~crime or offense~~ misdemeanor, the court before whom the conviction is had may request a presentence investigation by a probation officer. Whenever a defendant is convicted of a felony, the court shall require that a presentence investigation be conducted by a probation officer or in accordance with K.S.A. 1977 Supp. 21-4603, as amended, unless the court finds that adequate and current information is available in a previous presentence investigation report or from other sources.

(2) Whenever an investigation is requested, the probation officer shall promptly inquire into the circumstances of the offense; the attitude of the complainant or victim, and of the victim's immediate family, where possible, in cases of homicide; and the criminal record, social history, and present condition of the defendant. Except where specifically prohibited by law, all local governmental and state police agencies shall furnish to the probation officer conducting the presentence investigation such criminal records as the probation such officer may request. Where in the opinion of the court it is desirable, The presentence investigation shall include a physical and mental examination of the defendant, unless the court finds that a physical examination

2-23 page 8

K.S.A. 21-4605

PROPOSED AMENDMENT TO K.S.A. 21-4605
By Representative Lorentz

As contained in HB 2040 or the unIntroduced draft (7 RS 1989) distributed by the department on corrections.

Following the last sentence of 21-4605, by inserting after the period the following:

"Nothing in this section shall be construed as prohibiting the attorney for the defendant from disclosing the report of the presentence investigation, or other diagnostic reports, to the defendant."

or mental examination of the defendant is not necessary for an adequate presentence investigation. If a defendant is committed to any institution, the investigating agency shall send a report of its investigation to the institution at the time of commitment.

(3) In all cases, presentence investigation reports shall be in the form and contain the information prescribed by rules and regulations of the secretary of corrections adopted in accordance with K.S.A. 77-415 et seq., and amendments thereto, and shall contain such other information as may be prescribed by the court.

Sec. 5. On and after January 1, 1979, K.S.A. 21-4605 is hereby amended to read as follows: 21-4605. (1) The judge shall make available the presentence report, any report that may be received from the Kansas state diagnostic center or the state security hospital, and other diagnostic reports to the attorney for the state and to the counsel for the defendant when requested by them, or either of them. Such reports shall be part of the record but shall be sealed and opened only on order of the court.

(2) If a defendant is committed to a state institution or to the custody of the secretary of corrections such reports shall be sent to the secretary of corrections and, in accordance with K.S.A. 75-5220, as amended, to the superintendent of such director of the state correctional institution to which the defendant is conveyed.

Sec. 6. On and after January 1, 1979, K.S.A. 21-4608 is hereby amended to read as follows: 21-4608. (1) When separate sentences of imprisonment for different crimes are imposed on a defendant on the same date, including sentences for crimes for which suspended sentences or probation have been revoked, such sentences shall run concurrently or consecutively as the court directs. Whenever the record is silent as to the manner in which two or more sentences imposed at the same time shall be served, they shall be served concurrently.

(2) Any person who commits a crime while on parole or

conditional release and is convicted and sentenced therefor, shall serve such sentence concurrently or consecutively with the term or terms under which he such person was released, as the court directs.

(3) The provisions of this subsection relating to parole eligibility shall be applicable to persons convicted of crimes committed prior to January 1, 1979, but shall be applicable to persons convicted of crimes committed on or after such date only to the extent that the terms of this subsection are not in conflict with the provisions of subsection (2) of K.S.A. 1977 Supp. 22-3717, as amended. In calculating the time to be served on concurrent and consecutive sentences, the following rules shall apply:

(a) When indeterminate terms run concurrently, the shorter minimum terms merge in and are satisfied by serving the longest minimum term and the shorter maximum terms merge in and are satisfied by conditional release or discharge on the longest maximum term if such terms are imposed on the same date.

(b) When concurrent terms are imposed on different dates computation will be made to determine which term or terms require the longest period of incarceration to reach parole eligibility, conditional release and net maximum dates, and that sentence will be considered the controlling sentence. The parole eligibility date may be computed and projected on one sentence and the conditional release date and net maximum may be computed and projected from another to determine the controlling sentence.

(c) When indeterminate terms imposed on the same date are to be served consecutively, the minimum terms are added to arrive at an aggregate minimum to be served equal to the sum of all minimum terms and the maximum terms are added to arrive at an aggregate maximum equal to the sum of all maximum terms.

(d) When indeterminate sentences are imposed to be served consecutively to sentences previously imposed in any other court, or the sentencing court, the aggregated minimums and maximums shall be computed from the date of the earliest sentence and

commitment to which additional sentences are imposed as consecutive for the purpose of determining the sentence begins date, parole eligibility, conditional release and net maximum dates.

(e) When consecutive sentences are imposed which are to be served consecutive to sentences for which a prisoner has been on probation, parole or conditional release, the parole eligibility, conditional release and net maximum dates shall be adjusted by the amount of time served on probation, parole or conditional release.

(4) When a definite and an indefinite term run consecutively, the period of the definite term is added to both the minimum and maximum of the indeterminate term and both sentences are satisfied by serving the indeterminate term.

(5) When a defendant is sentenced in a state court and is also under sentence from a federal court or is subject to sentence in a federal court for an offense committed prior to ~~his~~ the defendant's sentence in state court, the court may direct that custody of the defendant may be relinquished to federal authorities and that such state sentences as are imposed may run concurrently with any federal sentence imposed.

Sec. 7. On and after January 1, 1979, K.S.A. 1977 Supp. 21-4610 is hereby amended to read as follows: 21-4610. ~~The Kansas adult authority may adopt general rules and regulations concerning the conditions of probation or suspension of sentence. The conditions shall apply in the absence of any inconsistent conditions imposed by the court.~~ (1) Nothing herein contained shall limit the authority of the court to impose or modify any general or specific conditions of probation or suspension of sentence.

(2) The probation officer may recommend and by order duly entered by the court may impose and at any time may modify any conditions of probation or suspension of sentence. Due notice shall be given to the probation officer before any such conditions are modified and said officer shall be given an

opportunity to be heard thereon. The court shall cause a copy of any such order to be delivered to the probation officer and the probationer.

(3) The court may include among the conditions of probation or suspension of sentence the following and any other conditions that it deems proper:

The defendant shall

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Report to the probation officer as directed;

(d) Permit the probation officer to visit said defendant at home or elsewhere;

(e) Work faithfully at suitable employment insofar as possible;

(f) Remain within a specified area;

(g) Pay a fine or costs, applicable to the offense, in one or several sums and in the manner as directed by the court;

(h) Make reparation or restitution to the aggrieved party for the damage or loss caused by the offense in an amount and in the manner to be determined by the court;

(i) Support said defendant's dependents;

(j) Obey the laws of the United States, the state of Kansas or any other jurisdiction to whose laws said defendant may be subject;

(k) Reimburse the aid to indigent defendants fund for counsel and other defense service expenditures, in one or several sums as directed by the court.

(l) Reside in a residential facility located in the community and participate in educational, counseling, work and other correctional or rehabilitative programs;

(m) Perform community or public service work for local governmental agencies, private corporations organized not for profit, or charitable or social service organizations performing services for the community;

(n) Perform services under a system of day fines whereby the defendant is required to satisfy monetary fines or costs or reparation or restitution obligations by performing services for a period of days determined by the court on the basis of ability to pay, standard of living, support obligations and other factors.

Sec. 8. On and after January 1, 1979, K.S.A. 1977 Supp. 21-4611 is hereby amended to read as follows: 21-4611. (1) The period of suspension of sentence or probation fixed by the court shall not exceed five (5) years in felony cases or two (2) years in misdemeanor cases, subject to renewal and extension for additional fixed periods not exceeding five (5) years in felony cases, nor two (2) years in misdemeanor cases, ~~but~~. In no event shall the total period of probation or suspension of sentence for a felony exceed the greatest maximum term provided by law for the crime, except that where the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. Probation or suspension of sentence may be terminated by the court at any time and upon such termination or upon termination by expiration of the term of probation or suspension of sentence, an order to this effect shall be entered by the court.

(2) The district court having jurisdiction of the offender may parole any misdemeanant sentenced to confinement in the county jail ~~or in the Kansas correctional institution for women~~. The period of such parole shall be fixed by the court and shall not exceed two (2) years and shall be terminated in the manner provided for termination of suspended sentence and probation.

Sec. 9. On and after January 1, 1979, K.S.A. 22-3707 is hereby amended to read as follows: 22-3707. (a) The Kansas adult authority shall consist of five (5) members to be appointed by the governor with the advice and consent of the senate. ~~After January 1, 1975,~~ No more than three (3) members of such authority shall be members of the same political party. ~~At least two (2)~~ To the extent feasible, members of the Kansas adult authority shall

be chosen by the governor from among the following: Psychiatrists, psychologists, sociologists or, persons licensed to practice medicine and surgery. ~~At least one (1) member shall be a person,~~ and persons admitted to practice law before the supreme court of Kansas. The term of office of the members of the authority shall be four (4) years. In case of a vacancy in the membership of the authority occurring before the expiration of the term of office a successor shall be appointed in like manner as original appointments are made, for the remainder of the unexpired term. Each member of the Kansas adult authority shall devote his or her full time to the duties of membership on the authority.

~~Members serving on the state board of probation and parole on the effective date of this act shall be and remain the members of the authority created by this section and shall hold their respective offices until their terms expire and their respective successors are appointed and qualified or until a vacancy occurs. Of the two (2) members added by this act, one (1) shall be appointed for an initial term of three (3) years and one (1) for a term of four (4) years, commencing July 1, 1974.~~

(b) The governor may not remove any member of the authority except for disability, inefficiency, neglect of duty or malfeasance in office. Before such removal, ~~he will~~ the governor shall give the member a written copy of the charges against ~~him~~ the member and shall fix the time when ~~he~~ the member can be heard in his or her defense at a public hearing, which shall not be less than ten (10) days thereafter. Upon removal, the governor shall file in the office of the secretary of state a complete statement of all charges made against the member and the findings thereupon, with a complete record of the proceedings.

Sec. 10. On and after January 1, 1979, K.S.A. 1977 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (1) Subject to the provisions of this section, the Kansas adult authority shall have power to release on parole those persons confined in institutions who are eligible for parole when, in the

opinion of the authority, there is reasonable probability that such persons can be released without detriment to the community or to themselves.

~~(2) After expiration of one hundred twenty (120) days from the date of sentence, the Kansas adult authority is hereby granted the authority to place upon intensive supervised parole any inmate classified in the lowest minimum security classification who has achieved such status under rules and regulations promulgated by the secretary of corrections, except in the case where a death sentence or life imprisonment has been imposed as the minimum sentence or where the minimum sentence imposed aggregates more than fifteen (15) years, after deduction of work and good behavior credits. Persons confined in institutions shall be eligible for parole after fifteen (15) years if sentenced to life imprisonment or to a minimum term which, after deduction of work and good behavior credits, aggregates more than fifteen (15) years. The Kansas adult authority shall hold a parole hearing for any inmate who achieves eligibility for a parole hearing in accordance with this subsection (2).~~

(A) The following inmates shall be eligible for a parole hearing before the Kansas adult authority after fifteen (15) calendar years of confinement: (i) Any inmate sentenced to imprisonment for conviction of a class A felony; (ii) any inmate sentenced to a minimum term of twenty-nine (29) years or more.

(B) Any inmate sentenced to imprisonment for a class B or C felony shall be eligible for a parole hearing after serving the entire minimum term imposed by the court, less good time credits established by rule and regulation of the Kansas adult authority and awarded by the secretary of corrections on an earned basis pursuant to rules and regulations adopted by the secretary of corrections. Except when the defendant has been sentenced for a second or more felony pursuant to K.S.A. 21-4504, as amended, the Kansas adult authority may grant a parole hearing for a defendant convicted of a class B or C felony at any time after the court no

longer has jurisdiction to modify the sentence on its own initiative if such hearing is requested by the secretary of corrections for good cause.

(C) Except as otherwise provided in paragraphs (D) or (E) of this subsection (2), any inmate sentenced to imprisonment for a class D or E felony may be certified as parole eligible by the secretary of corrections at any time after the court no longer has jurisdiction to modify the sentence on its own initiative. Unless a parole hearing has already been held or a date established therefor, the Kansas adult authority shall hold a parole hearing when any such inmate has served the entire minimum sentence, less good time credits established by rule and regulation of the Kansas adult authority and awarded by the secretary of corrections on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(D) Notwithstanding the provisions of paragraphs (A), (B), (C) or (E) of this subsection (2), any inmate sentenced to a mandatory term of imprisonment for the commission of a crime in which a firearm was used, as provided in K.S.A. 1977 Supp. 21-4618, shall be eligible for a parole hearing after serving the entire minimum sentence imposed by the court.

(E) Subject to the limitations of paragraph (D) of this subsection (2), any inmate sentenced for a second or more felony conviction pursuant to K.S.A. 21-4504, as amended, for a class D or E felony shall be eligible for a parole hearing after serving the entire minimum sentence imposed by the court, less good time credits established by rule and regulation of the Kansas adult authority and awarded by the secretary of corrections on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) Consecutive sentences shall be computed as follows for purposes of computing the date when an inmate is eligible for a parole hearing:

(i) When an inmate receives consecutive sentences imposed on the same date, the date when the inmate shall be eligible for

a parole hearing shall be computed by adding together the terms of imprisonment required to be served by an inmate before being eligible for a parole hearing for each applicable provision of paragraphs (A) to (E), inclusive, and paragraph (G) of this subsection (2).

(ii) When indeterminate sentences are imposed on different dates to be served consecutively to sentences previously imposed, the date when the inmate shall be eligible for a parole hearing shall be computed from the commencing date of the subsequent sentence in the same manner as provided in paragraph (i) above of this subsection (2)(F), but shall be reduced by the amount of time that the inmate served for the earlier imposed sentence, including any time spent on probation or parole, if any, up to a maximum reduction that is equal to the minimum term imposed for the earlier sentence.

(G) Notwithstanding the provisions of paragraphs (A) and (B) of this subsection (2), an inmate that has been convicted of a class A, B or C felony by reason of aiding, abetting, advising or counseling another to commit a crime or by reason of the principle provided for in subsection (2) of K.S.A. 21-3205, and any amendments thereto, may be certified as parole eligible by the secretary of corrections at any time after the court no longer has jurisdiction to modify the sentence on its own initiative. Unless a parole hearing has already been held or a date established therefor, the Kansas adult authority shall hold a parole hearing after the inmate has served one year imprisonment, less good time credits established by rules and regulations of the Kansas adult authority and awarded by the secretary of corrections on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(3) ~~Within one year after the admission of each inmate--and~~ Prior to each parole hearing and if parole is not granted at such intervals thereafter as it may determine by its rules and regulations the Kansas adult authority shall consider all pertinent information regarding each inmate, including the

circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; and the reports of such physical and mental examinations as have been made. Within a reasonable time after a defendant is committed to the custody of the secretary of corrections, which time shall not exceed sixty (60) days after the court's jurisdiction to modify the sentence has passed, the Kansas adult authority or a member of the authority, shall hold an initial hearing ^{with?} which each such defendant in order to inform the inmate of the date when he or she will be eligible for a parole hearing.

(4) Before ordering the parole of any inmate, the Kansas adult authority shall have the inmate appear before it and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. A parole shall be ordered only for the best interest of the inmate and not as an award of clemency. Parole shall not be considered a reduction of sentence or a pardon. An inmate shall be placed on parole only when the Kansas adult authority believes that the inmate is able and willing to fulfill the obligations of a law-abiding citizen or that the inmate should be released for hospitalization, deportation or to answer the warrant or other process of a court. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the Kansas adult authority formally considers placing an inmate on parole and does not grant the parole, the authority shall notify the inmate in writing of the reasons for not granting the parole.

(5) Any parolee may be placed on intensive supervised parole. Any such parolee shall have a direct meeting at least once each week with an intensive supervising parole officer. Such parolee may be removed from intensive supervised parole when it is determined by the secretary of corrections that such removal will not jeopardize public safety and will be beneficial to the interests of the parolee.

(6) The Kansas adult authority ~~may shall~~ adopt rules and regulations in accordance with K.S.A. 77-415 et seq. and amendments thereto. not inconsistent with the law and as it may deem proper or necessary, with respect to the eligibility of inmates for parole, the conduct of parole hearings, ~~or~~ orders of restitution and other conditions to be imposed upon parolees. Whenever an order for parole is issued it shall recite the conditions thereof.

(7) ~~As used in this section, the term "minimum security" shall be defined by rules and regulations of the secretary of corrections.~~

(8) ~~Notwithstanding any other provision of this section, any person sentenced pursuant to K.S.A. 1976 Supp. 21-4618 shall not be eligible for parole therefrom prior to serving the entire minimum sentence imposed, except that in the case of a person convicted of a class A felony and sentenced pursuant to K.S.A. 1976 Supp. 21-4618 shall not be eligible for parole prior to serving fifteen (15) years of the sentence imposed. The provisions of this section relating to eligibility dates for a parole hearing shall be applicable to all inmates sentenced for crimes committed on or after January 1, 1979.~~

New Sec. 11. (a) On and after January 1, 1979, the department of corrections shall cease its functions and duties with regard to providing probation officers for the supervision of persons placed on probation by the district courts of this state. On and after said date the department of corrections shall continue its functions and duties with regard to providing parole officers for felons placed on parole by the Kansas adult authority but shall not provide parole officers for the supervision of misdemeanants placed on parole by the district courts of this state. The department of corrections shall provide the visitation, supervision and other services regarding probationers and parolees which are required under the uniform act for out-of-state parolee supervision.

(b) On and after January 1, 1979, all probation officers

supervising adults and juveniles placed on probation by the district courts of this state and all parole officers supervising misdemeanants placed on parole by the district courts of this state shall be appointed by the district courts as provided by law. The supreme court shall prescribe the qualifications required of persons appointed as parole or probation officers of the district courts. The compensation of such officers shall be paid by the state either in accordance with a compensation plan adopted by the supreme court or as may be otherwise specifically provided by law.

(c) The supreme court shall provide by rule for the appointment as probation officers by the district courts of those probation and parole officers of the department of corrections who are terminated from service as officers and employees of said department because of the transfer of functions and duties from said department to the district courts under this section and who are deemed necessary to assist in the performance of such functions and duties of the district courts. Any such officers and employees who are appointed as probation officers of the district courts shall retain all retirement benefits and, to the extent feasible and compatible with the provisions of the judicial personnel system relating to nonjudicial employees of the district courts, such appointments shall be deemed to be transfers with all rights of civil service which had accrued to such officers and employees prior to January 1, 1979, and the service of each such officer and employee so ^{appointed} ~~appropriated~~ and transferred shall be deemed to have been continuous.

Sec. 12. On and after January 1, 1979, K.S.A. 1977 Supp. 38-814 is hereby amended to read as follows: 38-814. ~~The administrative judge of each judicial district may appoint such~~
(a) Juvenile probation officers and investigators ~~as are necessary. Such probation officers and investigators shall receive such compensation, payable from the county, as is prescribed by the judges of the district court, within the limits of the budget for district court operations payable by the~~

county. ~~In addition to their compensation, such probation officers and investigators~~ shall receive mileage at the rate prescribed pursuant to K.S.A. 75-3203a, and amendments thereto, for each mile actually and necessarily traveled in the performance of their duties, when such travel is authorized by a judge of the district court or such monthly car allowance as may be authorized by the administrative judge within the limits of the district court budget.

~~Juvenile probation officers and investigators shall furnish the court with any information that may be obtained and render any assistance requested by the court in any proceeding pursuant to the juvenile code, which may be helpful to the court or the child.~~

(b) Under the direction of the court, a juvenile probation officer shall take possession and custody of any child under the court's jurisdiction and make such arrangements for the temporary care of any child as directed by the court.

Sec. 13. On and after January 1, 1979, K.S.A. 75-5214 is hereby amended to read as follows: 75-5214. The secretary of corrections shall appoint ~~probation and~~ parole officers in a number sufficient to administer the provisions of this act. ~~Such probation and parole officers shall be within the classified service of the Kansas civil service act. All probation and parole officers employed by the state director of probation and parole with the approval of the board of probation and parole under the provisions of K.S.A. 1972 Supp. 22-3713, immediately prior to the effective date of this act shall be employed in the same or comparable positions by the secretary of corrections and shall retain all rights and status acquired under the provisions of the Kansas civil service act. Nothing contained in this section shall be construed to alter or change the retirement plan or retirement status of the employees who under the provisions of this section are placed under the control of the secretary. Probation or Parole officers~~ appointed by the secretary of corrections shall have and exercise police powers to the same extent as other law

enforcement officers and such powers may be exercised by them anywhere within the state. ~~Probation--and~~ Such parole officers shall, in addition to their regular compensation, receive their actual and necessary traveling and other expenses incurred in the performance of their official duties.

Sec. 14. On and after January 1, 1979, K.S.A. 75-5216 is hereby amended to read as follows: 75-5216. ~~Probation--and~~ Parole officers shall investigate all persons referred to them for investigation by the secretary ~~or by any court in which they are authorized--to--serve~~ of corrections. They shall furnish to each person released under their supervision a written statement of the conditions of ~~probation--or~~ parole and shall ~~instruct him--or--her~~ give instructions regarding these conditions. They shall keep informed of ~~his--or--her~~ the parolee's conduct and condition and use all suitable methods to aid ~~and~~, encourage ~~him--or--her~~ and to bring about improvement in ~~his--or--her~~ the parolee's conduct and condition. ~~Probation--and~~ Parole officers shall keep detailed records of their work* and shall make such reports in writing and perform such other duties as may be incidental to those above enumerated or as the ~~court--or~~ secretary may require. They shall coordinate their work with that of social welfare agencies.

Sec. 15. On and after January 1, 1979, K.S.A. 75-5217 is hereby amended to read as follows: 75-5217. (a) At any time during release on parole or conditional release the secretary of corrections may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release, or a notice to appear to answer to a charge of violation. Such notice shall be served personally upon the released inmate. The warrant shall authorize all officers named therein to deliver the released inmate to a place designated by the secretary. Any parole ~~or--probation~~ officer may arrest such released inmate without a warrant, or may deputize any other officer with power of arrest to do so by giving such officer a written statement setting forth that the released inmate has, in the judgment of the parole ~~or--probation~~ officer, violated the conditions of his

or her release. The written statement delivered with the released inmate by the arresting officer to the official in charge of the institution or place to which the released inmate is brought for detention shall be sufficient warrant for detaining said inmate. After making an arrest the parole ~~or probation~~ officer shall present to the detaining authorities a similar statement of the circumstances of violation. Pending hearing, as hereinafter provided, upon any charge of violation the released inmate shall remain incarcerated in the institution.

(b) Upon such arrest and detention, the parole ~~or probation~~ officer shall immediately notify the secretary of corrections and shall submit in writing a report showing in what manner the released inmate had violated the conditions of release. Thereupon, or upon an arrest by warrant as herein provided, the secretary shall cause the released inmate to be brought before the Kansas adult authority, its designee or designees, for a hearing on the violation charged, under such rules and regulations as the authority may adopt. Relevant written statements made under oath shall be admitted and considered by the Kansas adult authority, its designee or designees, along with other evidence presented at the hearing. If the violation is established to the satisfaction of the Kansas adult authority, the authority may continue or revoke the parole or conditional release, or enter such other order as the authority may see fit.

(c) A released inmate for whose return a warrant has been issued by the secretary of corrections shall, if it is found that the warrant cannot be served, be deemed to be a fugitive from justice or to have fled from justice. If it shall appear that such fugitive has violated the provisions of his or her release, the time from the violation of such provisions to the date of his or her arrest shall not be counted as time served under the sentence. The secretary may issue a warrant for the arrest of a released inmate for violation of any of the conditions of release and may direct that all reasonable means to serve the warrant and detain such fugitive be employed including but not limited to

notifying the federal bureau of investigation of such violation and issuance of warrant and requesting from the federal bureau of investigation any pertinent information it may possess concerning the whereabouts of such fugitive.

Sec. 16. On and after January 1, 1979, K.S.A. 75-5218 is hereby amended to read as follows: 75-5218. (a) When any person is sentenced to the custody of the secretary of corrections pursuant to the provisions of K.S.A. 1977 Supp. 21-4609, the clerk of the court ~~wherein said conviction was had~~ which imposed such sentence shall within three (3) days notify the secretary of corrections.

(b) Together with the order of commitment to the custody of the secretary of corrections said clerk shall ~~also~~ deliver to the officer having said offender in charge a record containing (1) a copy of the indictment or information, (2) the verdict of the jury, (3) the name and residence of the officer before whom the preliminary trial was had, the judge presiding at the trial, and of the witnesses sworn on said trial, ~~together with the commitment to the Kansas reception and diagnostic center; which~~ and (4) a copy of all presentence investigation reports and other diagnostic reports on the offender received by the district court, including any reports received from the Kansas state reception and diagnostic center or the state security hospital. This record shall be delivered to the officers conveying said offender to the Kansas state reception and diagnostic center or such other correctional institution prescribed by K.S.A. 75-5220, as amended, or by the secretary of corrections in accordance with said statute. ~~Any female offender sentenced according to the provisions of K.S.A. 75-5229 shall not be committed to the Kansas reception and diagnostic center but shall be conveyed directly to the Kansas correctional institution for women.~~

Sec. 17. On and after January 1, 1979, K.S.A. 75-5220 is hereby amended to read as follows: 75-5220. (a) Within three (3) days of receipt of the notice provided for in K.S.A. 75-5218, as amended, the secretary of corrections shall notify the sheriff

having such offender in his or her custody to convey said offender forthwith to the Kansas state reception and diagnostic center or if space is not available at such center, then to some other state correctional institution until space at the center is available, except that, in the case of first offenders who are conveyed to a state correctional institution other than the Kansas state reception and diagnostic center, such offenders shall be segregated from the inmates of such correctional institution who are not being held in custody at such institution pending transfer to the Kansas state reception and diagnostic center when space is available therein. ~~Any offender conveyed to a state correctional institution pursuant to this section shall be accompanied by the record of such offender's trial and conviction as made up by the clerk.~~ The expenses of any such conveyance shall be charged against and paid out of the general fund of the county whose sheriff shall convey said offender to the institution as herein provided.

(b) Any female offender sentenced according to the provisions of K.S.A. 75-5229 shall not be conveyed to the Kansas state reception and diagnostic center but shall be conveyed by the sheriff having such offender in his or her custody directly to the Kansas correctional institution for women. The expenses of such conveyance to the Kansas correctional institution for women shall be charged against and paid out of the general fund of the county whose sheriff shall convey such female offender to such institution.

(c) Each offender conveyed to a state correctional institution pursuant to this section shall be accompanied by the record of such offender's trial and conviction as prepared by the clerk of the district court in accordance with K.S.A. 75-5218, as amended.

Sec. 18. K.S.A. 75-5256 is hereby amended to read as follows: 75-5256. (a) The director of each correctional institution may ~~make and issue such general and special orders and rules, not inconsistent with law~~ subject to the provisions of ^{law}

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and the rules ~~established~~ and regulations adopted by the secretary of corrections, as ~~he or she~~ such director may deem necessary for the government of the correctional institution and the enforcement of discipline therein ~~and~~.

(b) All rules and regulations or orders for the government of ~~the~~ a correctional institution and the enforcement of discipline therein ~~made~~ adopted or issued by the secretary ~~or of~~ corrections and all orders issued by the director of the institution shall be published and made available to all inmates. Every such ~~rule or order promulgated~~ issued by the director shall be effective until rescinded or amended by ~~him or her~~ such director or until disapproved by the secretary.

Sec. 19. On and after January 1, 1979, K.S.A. 75-5285 is hereby amended to read as follows: 75-5285. (a) Whenever the board of probation and parole, or words of like effect, is referred to or designated by statute, contract or other document, such reference or designation shall be deemed to apply to the Kansas adult authority created by this act.

(b) Whenever probation and parole officers under the jurisdiction of the state board of probation and parole, or words of like effect, is referred to or designated by statute, contract or other document, such reference or designation shall be deemed to apply to ~~probation and~~ parole officers under the jurisdiction of the secretary of corrections.

New Sec. 20. (a) On or before December 31, 1978, and, except as otherwise provided by this section, in accordance with the provisions of K.S.A. 77-416 and 77-418, and amendments thereto: (1) The secretary of corrections shall prepare and file with the revisor of statutes a complete compilation of all rules and regulations of the secretary of corrections and the directors of the state correctional institutions, and (2) the Kansas adult authority shall prepare and file with the revisor of statutes a complete compilation of all rules and regulations of the Kansas adult authority. The rules and regulations compiled and filed under this subsection (a) shall not be required to be accompanied

by fiscal or financial effect or impact statements under K.S.A. 77-416, and amendments thereto.

(b) Until January 1, 1979, and notwithstanding any provisions of K.S.A. 77-415 to 77-436, inclusive, and amendments thereto, all rules and regulations of the secretary of corrections, the directors of the state correctional institutions and the Kansas adult authority which are in force and effect prior to July 1, 1978, shall continue in full force and effect and may be amended, revived or revoked in the manner provided by the law in effect prior to July 1, 1978. On January 1, 1979, all rules and regulations of the secretary of corrections, the directors of the state correctional institutions and the Kansas adult authority in force and effect prior to said date shall be null and void.

(c) On January 1, 1979, the rules and regulations of the secretary of corrections, ^{and} the directors of the state correctional institutions which are compiled and filed with the revisor of statutes on or before December 31, 1978, in accordance with this section by the secretary of corrections, shall take effect and be in force and shall be the duly adopted temporary rules and regulations of the secretary of corrections. All such temporary rules and regulations of the secretary of corrections and the Kansas adult authority shall be numbered in accordance with the numbering arrangement approved by the revisor of statutes for temporary rules and regulations but shall not be published by the revisor of statutes. On and after January 1, 1979, all temporary and permanent rules and regulations of the secretary of corrections and the Kansas adult authority shall be subject to all of the provisions of K.S.A. 77-415 to 77-436, inclusive, and amendments thereto.

Sec. 21. K.S.A. 77-415 is hereby amended to read as follows: 77-415. As used in ~~this act~~ K.S.A. 77-415 to 77-436, inclusive, and amendments thereto, and section 20, unless the context clearly requires otherwise:

(1) "State agency" means any officer, department, bureau,

adult authority shall take effect and be in force and effect and shall be the duly adopted temporary rules and regulations of the Kansas adult authority.
On January 1, 1979, the rules and regulations of the Kansas adult authority which are compiled and filed with the revisor of statutes on or before December 31, 1978, shall take effect and be in force and effect and shall be the duly adopted temporary rules and regulations of the Kansas adult authority.

division, board, authority, agency, commission, or institution of this state, except the judicial and the legislative branches, which is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state.

(2) "Person" means firm, association, organization, partnership, business trust, corporation or company.

(3) "Board" means the state rules and regulations board established under the provisions of K.S.A. 77-423 and any amendments thereto.

(4) "Rule and regulation," "rule," "regulation" and words of like effect mean a standard, statement of policy or general order, including amendments or revocations thereof, of general application and having the effect of law, issued or adopted by a state agency to implement or interpret legislation enforced or administered by such state agency or to govern the organization or procedure of such state agency. Every rule and regulation adopted by a state agency to govern its enforcement or administration of legislation shall be adopted by the state agency and filed as a rule and regulation as provided in this act. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in a state agency decision upon or disposition of a particular matter as applied to a specific set of facts does not render the same a rule or regulation within the meaning of the foregoing definition, nor shall it constitute specific adoption thereof by the state agency so as to be required to be filed. A rule and regulation as herein defined shall not include any rule and regulation which: (a) Relates to the internal management or organization of the agency and does not affect private rights or interest; (b) is an order directed to specifically named persons or to a group which does not constitute a general class and the order is served on the person or persons to whom it is directed by appropriate means. The fact that the named person serves a group of unnamed persons who will be affected does not make such an order a rule or

regulation; (c) relates to the use of highways and is made known to the public by means of signs or signals; (d) relates to the construction and maintenance of highways or bridges or the laying out or relocation of a highway; (e) relates to the curriculum of public educational institutions or to the administration, conduct, discipline, or graduation of students from such institutions; ~~(f) relates to the management, discipline, or release of persons committed to penal or correctional institutions or persons who are placed on probation;~~ (g) (f) relates to the use of facilities by public libraries; ~~(h)~~ (g) relates to military or naval affairs; ~~(i)~~ (h) relates to the form and content of reports, records, or accounts of state, county, or municipal officers, institutions, or agencies; ~~(j)~~ (i) relates to expenditures by state agencies the purchase of materials, equipment, or supplies by or for state agencies, or the printing or duplicating of materials for state agencies; ~~(k)~~ (j) establishes personnel standards, job classifications, or job ranges for state employees who are in the classified civil service; ~~(l)~~ (k) fixes or approves rates, prices, or charges, or rates, joint rates, fares, tolls, charges, rules, regulations, classifications or schedules of common carriers or public utilities subject to the jurisdiction of the state corporation commission, except when a statute specifically requires the same to be fixed by a rule or regulation; ~~(m)~~ (l) determines the valuation of securities held by insurance companies; ~~(n)~~ (m) is a statistical plan relating to the administration of rate regulation laws applicable to casualty insurance or to fire and allied lines insurance; ~~(o)~~ (n) is a form, the content or substantive requirements of which are prescribed by regulation or statute; ~~(p)~~ (o) relates to the exploration for or to the production, conservation or sale of crude oil or natural gas, or to the injection of air, gas, water or other fluid under pressure into oil or gas producing sands, strata or formations for the purpose of recovering the oil and gas contained therein, or to the disposal of oil-field or gas-field brines, mineralized waters

and wastes; or ~~(e)~~ (p) is a pamphlet or other explanatory material not intended or designed as interpretation of legislation enforced or adopted by a state agency but is merely informational in nature.

Sec. 22. K.S.A. 77-421 is hereby amended to read as follows: 77-421. (a) Prior to the adoption of any permanent rule and regulation or any temporary rule and regulation which is required to be adopted as a temporary rule and regulation in order to comply with the requirements of the statute authorizing the same and after any such rule and regulation has been approved by the secretary of administration and the attorney general, the adopting state agency shall give at least fifteen (15) days' notice of its intended action to all parties of interest known to the state agency, to all persons making timely request to the state agency and to the revisor of statutes. The parties to be noticed, in each case, shall be subject to the approval of the attorney general. The notice shall be mailed to the revisor of statutes and to all parties so approved and shall contain a statement of the terms, or the substance of the proposed rules and regulations or a description of the subjects and issues involved. Such notice shall state the time and place of the public hearing to be held thereon and the manner in which interested parties may present their views thereon. Such notice shall be accompanied by a copy of the fiscal or financial impact statement applicable to all proposed rules and regulations which will be considered at such public hearing. On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments on adoption of the rule and regulation, either orally or in writing. When requested to do so, the state agency shall prepare a concise statement of the principal reasons for adopting the rule and regulation or amendment thereto. The failure of any party to receive notice of a hearing on a proposed rule and regulation shall not invalidate any such rule and regulation subsequently adopted. Whenever a state agency is required by any other

statute to give notice and hold a hearing before adopting, amending, reviving, or revoking a rule and regulation, the state agency may, in lieu of following the requirements or statutory procedure set out in such other law, give notice and hold hearings on proposed rules and regulations in the manner prescribed by this act. Notwithstanding the other provisions of this section, the Kansas adult authority and the secretary of corrections may, but shall not be required to, give notice or an opportunity to be heard to any inmate in the custody of the secretary of corrections with regard to the adoption of any rule and regulation.

(b) No rule and regulation shall be adopted except at a meeting which is open to the public+ and notwithstanding any other provision of law to the contrary, no rule and regulation shall be adopted unless it shall receive approval by roll call vote of a majority of the total membership of the adopting board, commission, authority or other similar body.

Sec. 23. K.S.A. 77-421a is hereby amended to read as follows: 77-421a. Whenever any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and the legislative branches, is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state, and such rules and regulations are exempt from the requirements of K.S.A. 77-415 et seq., and amendments thereto, by virtue of the definition of "rule or regulation" in subsection (4) of K.S.A. 77-415, as amended, such rules and regulations shall be adopted in the manner prescribed by K.S.A. 77-421, as amended. This section shall not apply to orders issued by directors of correctional institutions under K.S.A. 75-5256, as amended.

Sec. 24. K.S.A. 75-5256, 77-415, 77-421 and 77-421a are hereby repealed.

Sec. 25. On and after January 1, 1979, K.S.A. 21-4501, 21-4504, 21-4604, 21-4605, 21-4608, 22-3707, 75-5214, 75-5215,

75-5216, 75-5217, 75-5218, 75-5220 and 75-5285 and K.S.A. 1977
Supp. 21-4603, 21-4610, 21-4611, 22-3717, 38-814 and 38-551 are
hereby repealed.

Sec. 26. This act shall take effect and be in force from
and after its publication in the statute book.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 3133
For Consideration by House Judiciary

Be amended:

On page 1, in line 26, by striking "shall" and inserting in lieu thereof "may"; also in line 26, preceding "fifteen" by inserting the following: "not to exceed"; in line 31, after "thereof" by inserting a comma; also in line 31, by striking "such committee" and inserting in lieu thereof "the secretary of corrections";

On page 2, following line 62, by inserting a new section to read as follows:

"Sec. 4. K.S.A. 75-5205 is hereby amended to read as follows: 75-5205. The secretary of corrections shall have the general supervision and management of the correctional institutions of the state and such other facilities as may be acquired by lease, purchase or contract for the housing of persons in ~~his or her~~ the secretary's custody. ~~He or she~~ The secretary shall have general supervision, management and control of any manufacturing or other business that may be carried on in behalf of the state pursuant to law, other than business enterprises operating under section 2, in and about any correctional institution or facility and shall have the power to receive, take charge, sell or otherwise dispose of any articles manufactured or produced for the benefit of the state, in the manner prescribed by law, other than articles, products and services produced or provided by business enterprises operating under section 2. The secretary shall have charge and general supervision of the grounds and buildings of such correctional institutions, and ~~he or she~~ is hereby authorized to purchase the necessary material and supplies therefor. ~~He or she~~ The secretary shall devote his or her entire time to the duties conferred upon ~~him or her~~ the secretary by this act. The secretary may appoint such employees as may be necessary for the efficient management

and administration of the department of corrections and as are within available appropriations, and such employees shall be within the classified service under the Kansas civil service act, except that any person appointed as an attorney shall be in the unclassified service under the Kansas civil service act. The director of architectural services shall provide the department of corrections with office space at Topeka.";

And by renumbering sections 4 to 14, inclusive, as sections 5 to 15, respectively;

On page 3, in line 106, by striking "It" and inserting in lieu thereof the following: "Subject to the general supervision of the secretary of corrections and applicable rules and regulations adopted by the secretary, ~~it~~"; in line 107, by striking all after "institution"; by striking all in line 108; in line 109, by striking all before the colon;

On page 4, by striking all in lines 121 to 129, inclusive; in line 130, by striking "(f)" and inserting in lieu thereof "(e)"; in line 148, by striking all after "(e)"; in line 149, by striking all before the period and inserting in lieu thereof the following: "'organization" means any church or any not-for-profit corporation organized for eleemosynary purposes";

On page 5, in line 160, by striking "person" and inserting in lieu thereof "organization"; in line 163, by striking "person" and inserting in lieu thereof "organization"; in line 176, by striking "persons" and inserting in lieu thereof "organizations";

On page 6, in line 225, by striking "account"; also in line 225, preceding the period by inserting the following: "fund, which fund is hereby created in the state treasury";

On page 7, in line 228, by striking "and" where it appears immediately preceding the word "for"; in line 229, preceding "except" by inserting the following: "and for administrative expenses,"; in lines 236 and 237, by striking "state treasurer" and inserting in lieu thereof "director of accounts and reports"; in line 239, by striking "state treasurer" and inserting in lieu thereof "director of accounts and reports"; in line 240, by

striking "the director of accounts and reports and"; in line 242, by striking "their respective offices" and inserting in lieu thereof "financial transactions"; following line 242, by inserting a new subsection to read as follows:

"(d) On the effective date of this act, the director of accounts and reports is hereby authorized and directed to transfer all moneys in the correctional industries account to the correctional industries fund created by this section. Upon the effective date of this act, all liabilities of the correctional industries account are hereby transferred to and imposed on the correctional industries fund created by this section. The correctional industries account is hereby abolished.";

Also on page 7, in line 243, after "K.S.A." by inserting the following: "75-5205,";

On page 1, in the title, in line 19, after "K.S.A." by inserting the following: "75-5205,";

2-23

Summary of the Community Corrections Act. A summary of the major provisions of H.B. 3112, which would enact the "Kansas Community Corrections Act," appears below.

Section 1. Short title - "Community Corrections Act."

Section 2. This section authorizes the Secretary of Corrections to make grants to counties for the development, implementation, operation, and improvement of community correctional services.

Section 3. The following counties may qualify for grants under the Act by creating a Corrections Advisory Board and developing a comprehensive plan, to be approved by the Secretary of Corrections, for the development of community correctional services:

- 1) Any county which has a population of 30,000 or more;
- 2) any group of counties which has a total population of 20,000 or more;
- 3) any four or more counties, regardless of population; or
- 4) any county with a population of less than 30,000 authorized by the Secretary of Corrections.

In organizing multi-county groupings, counties are not permitted to cross judicial district lines. Provision is also made for all counties within a judicial district to come under the Act should one or more counties within the district propose to qualify for grants, both at the time of initial organization and at any time thereafter. Subject to agreements between cooperating counties, the boards of county commissioners retain all authority for the expenditure of funds, including grants under the Act, and for the implementation and operation of the comprehensive plan. The board of county

commissioners of each county must review and approve the comprehensive plan prior to its submission to the Secretary for approval.

Section 4. The Secretary is also authorized to pay a county or counties an amount up to 10 percent of the maximum quarterly grant for which they are eligible to assist in the expenses incurred by Corrections Advisory Board members in developing a comprehensive plan.

Section 5. The Secretary of Corrections is authorized to adopt rules and regulations necessary for the implementation and administration of the Act and to provide technical assistance to counties and Corrections Advisory Boards.

Section 6. Any county or group of counties electing to come under the Act may, through their boards of county commissioners, or administrative bodies established by cooperating counties:

- 1) Acquire, through purchase, lease, transfer of control, or other lawful means, the lands, buildings, and equipment necessary to such purposes;
- 2) enter into contracts;
- 3) determine and establish the administrative structure best suited to the administration and delivery of correctional services;
- 4) employ a director and other personnel;
- 5) make grants, in accordance with the comprehensive plan, to not-for-profit corporations for the development, operation, and improvement of correctional services; and
- 6) accept funds from any lawful source, including federal funds.

Section 7. No county would be eligible for grants under the Act until its comprehensive plan has been approved by the Secretary of Corrections. The Secretary, through rules and regulations, is authorized to establish standards for the operation of community correctional services and to annually review the comprehensive plans submitted by participating counties. The Secretary is also authorized to suspend all or a portion of any grant to counties which are found not to be in substantial compliance with the minimum operating standards.

Section 8. This section designates the membership of the Corrections Advisory Boards which must be established under the Act. The membership of each Corrections Advisory Board would be as follows:

- 1) One sheriff and one chief of police;
- 2) a county or district attorney;
- 3) a district court judge;
- 4) an educational professional appointed by the board(s) of county commissioners;
- 5) a representative appointed by the Secretary of Social and Rehabilitation Services;
- 6) three members appointed by the board or boards of county commissioners acting together; and
- 7) three members appointed by certain cities with the county or group of cooperating counties.

If possible, the members appointed by the counties and cities shall be representative of one or more of the following: (1) parole or probation officers; (2) public or private social service agencies; (3) ex-offenders; (4) the health care professions; and (5) the general public. At least two members

of each board must be representative of ethnic minorities and no more than two-thirds of each board could be members of the same sex.

Section 9. Appointive members of each Corrections Advisory Board would serve terms of two years and each board would elect its own officers. Proceedings of the boards would be subject to the Kansas Open Meetings Act (K.S.A. 75-4317 to 75-4320).

Section 10. Corrections Advisory Boards would be required to actively participate in the formulation of the comprehensive plan for the development, implementation, and operation of correctional services in the county or group of participating counties and make formal recommendations to the board or boards of county commissioners concerning the comprehensive plan.

Section 11. Any comprehensive plan could include the purchase of selected correctional services from the state by contract. The Secretary of Corrections would deduct the cost of these purchased services from the grant due to the county or counties.

Section 12. The grant formula used in determining the amount of the grant to each participating county would be calculated for each county using the following factors:

- 1) Per capita income.
- 2) Per capita taxable valuation.
- 3) Crimes per one thousand population.
- 4) Percent of county population 5 through 29 years of age.

The crimes per one thousand data would be determined from the most recent compilation of Kansas crime statistics by the Kansas Bureau of Investigation. The percent of county population aged 5 through 29 would be determined by the Division of State Planning and Research.

In the case of counties receiving grants for the first time under the Act, the counties would receive 70 percent of the grants for which they are eligible the first year; 80 percent of the grant the second year; 90 percent of the grant the third year; and 100 percent of the grant the fourth and following years. (This provision is intended to eliminate the "windfall" problems experienced by several counties in Minnesota.)

Section 13. The comprehensive plan submitted to the Secretary of Corrections for approval must include those items prescribed by rules and regulations adopted by the Secretary. In addition, each participating county or group of counties would be required to develop a procedure for the review, by the Corrections Advisory Board and the boards of county commissioners, of new program applications and other matters to be included under the comprehensive plan.

Section 14. The Secretary of Corrections would determine the amount of expenditures for correctional services of each county applying for a grant during the calendar year immediately preceding the year in which the county will receive its first grant. Each county receiving a grant under the Act would be required to make expenditures, in an amount equal to or exceeding the amount spent during the base year, from funds other than grants under the Act. If a county failed to continue its local correctional expenditure effort, the grant for the next year would be reduced by an amount equal to the amount the county failed to make its required amount of local expenditure.

Section 15. Each county receiving grants under the Act would be charged for:

1. The per diem costs to the State General Fund for persons from the county who are committed to the Secretary of Corrections for confinement after the county comes under the Act. However, no charge would be made for those persons convicted of Class A, Class B, and Class C felonies.

2. The per diem costs to the State General Fund for those juveniles committed to the Secretary of Social and Rehabilitation Services or to any SRS institution.

In no case would the amount charged to a county exceed the amount of the grant for which the county is eligible. All such charges would be deducted from the county's grant and would be charges against the county of commitment.

Section 16. Grants would be paid on a quarterly basis and each county would be required to submit quarterly statements detailing the amounts expended and costs incurred for correctional services.

Section 17. Counties would be permitted to withdraw from participation under the Act, after due notice to the Secretary of Corrections.

Section 18. The Secretary of Corrections and any county not participating under the Act would be authorized to contract for correctional services from any counties which are participating under the Act.

Section 19. Counties electing not to come under this Act would remain eligible for any other state subsidy, grant, or assistance otherwise provided by law.

Section 20. The Act would take effect upon its publication in the official state paper.

Monitoring Committee. The Committee also recommends that the Legislative Coordinating Council appoint a legislative committee to monitor and oversee the implementation of the proposed Community Corrections Act as well as the implementation of the other recommendations made as a result of this study. The Committee believes that the Legislature, through this monitoring committee, should take an active part in the implementation of these recommendations and the adoption of the new policies recommended in this

TABLE III

APPROXIMATE FORMULA ALLOCATIONS TO SELECTED COUNTIES

	Population ^a	Personal Income ^b	Weightings			Allocation @ \$5.00
			Adjusted Valuation ^c	Risk Population ^d	Crime Rate ^e	
Sedgwick	342,403	.877	1.412	1.121	1.614	\$2,150,291
Johnson	243,938	.808	1.066	.962	1.098	1,200,175
Wyandotte	186,560	.966	2.209	1.059	2.011	1,456,101
Shawnee	174,819	1.002	1.649	.957	1.299	1,072,515
Reno	65,276	1.057	1.038	.943	1.158	342,373
Douglas	60,592	1.189	1.282	1.324	.937	358,402
Leavenworth	51,267	1.080	1.917	1.076	1.000	325,033
Saline	49,948	1.039	1.252	1.009	1.050	271,717
Montgomery	43,010	1.226	1.664	.809	.795	241,071
Riley	41,799	.795	1.809	2.128	1.328	316,627
Butler	40,909	1.433	1.062	.941	.748	213,954
Crawford	37,991	1.254	1.651	.974	.774	220,918
Barton	36,289	1.077	.827	.846	.627	153,140
Cowley	35,125	1.183	1.084	.924	.651	168,776
Lyon	32,841	1.002	1.257	1.201	1.176	190,314
Judicial District No. 25	44,306	.968	.518	.865	.777	173,236

^a Population of Kansas, Kansas State Board of Agriculture, January 1, 1976.

^b Governor's Economic Report, January 1, 1977.

^c Statistical Abstract of Property Valuation, January 1, 1977.

^d U.S. Bureau of Census, 1970.

^e Total offenses reported to law enforcement agencies, Crime in Kansas, Kansas Bureau of Investigation, 1975.