

Approved

Stephen R. Cloud
Date 3-27-84

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Rep. Stephen R. Cloud at
Chairperson

9:12 a.m./p.m. on March 26, 1984 in room 522-S of the Capitol.

All members were present except:

Rep. Sprague - Excused

Committee staff present:

Avis Swartzman - Revisor

Russ Mills - Legislative Research Department

Julian Efird - Legislative Research Department

Carolyn Rampey - Legislative Research Department

Jackie Breymeyer - Committee Secretary

Conferees appearing before the committee:

Ann Heberger - League of Women Voters of Kansas

Secretary Barbara - Department of Corrections

The meeting of the House Governmental Organization Committee was called to order at 9:12 a.m. by Rep. Stephen R. Cloud, Chairman. The minutes of the March 20, 21 and 22 meetings were approved.

The continuation of the hearing on the Department of Corrections began with Ann Heberger, League of Women Voters of Kansas, presenting testimony. Ms. Heberger stated the League is very supportive of recommendations 3, 6, 7 and 9, and also agree with the rest of the recommendations except for the following: Number 2, where the League strongly believes that changes should be made to rescind 1982 HB 3104 as it relates to D and E sentences, and number 10, where the League is not in favor of a new facility for women simply because it does not feel that they would fare any better than they do now. (See Attachment) I

Testimony of Sister Dolores Brinkel was distributed. Sister Dolores was unable to return to testify today before the Committee. (See Attachment) II

Secretary Barbara, Department of Corrections, spoke next and stated that he was quite pleased with the Subcommittee Report, although he would have liked to have seen more affirmative action on HB 3104. He discussed the 120-day modification of sentence practice and said he did think it could be shortened. He sees not fault with the judges; they simply do not want to bring these people back.

Secretary Barbara told the Committee about SB 858, a bi-partisan approach to some of the prison overcrowding problems. Length of sentencing, facilities and proposed 1 mill on tangible property over a two-year time frame was discussed. He concluded his testimony by stating that more alternative measures need to be looked into, but if nothing happens we have to build. He concurred with several members of the Committee that the entire sentencing structure needs to be looked at.

The Chairman thanked Secretary Barbara for appearing and directed the Committee's attention to SB 659, licensing of home health agencies. Avis Swartzman, Revisor, distributed copies of an amendment which provides some technical and clean-up language besides adding to page 1 "durable medical equipment companies which provide home health services by use of specialized equipment,". The amendment also re-defines aide. "home health services aide" means an employee of a home health agency who is not licensed or professionally registered to provide home health services but who assists, under supervision, in the provision of home health services and who provides related care to patients." Page 6, wherever the words "licensing agency" appear is stricken and "secretary" inserted. (See Attachment) III

Rep. Matlack moved to amend SB 659 by adding this amendment to the bill. Rep. Barr gave a second to the motion. The motion carried.

Avis Swartzman, Revisor, distributed an amendment on page 1, line 35, by striking "shall" and inserting in lieu thereof "does"; in line 37, after the comma, by inserting "hospitals which are licensed by the secretary of health and environment," This amendment, in effect, would exempt hospitals from the bill. (See Attachment) IV

Rep. Walker moved the adoption of the amendment to SB 659. Rep. Hassler gave a second to the motion. The motion failed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION,

room 522-S, Statehouse, at 9:12 a.m./p.m. on March 26, 1984

Rep. Matlack moved that SB 659 be passed as amended. Rep. Sughrue gave a second to the motion. The motion carried.

The Committee turned its attention to SB 479, abolition of certain boards, committees and commissions.

Rep. Ramirez moved to amend SB 479 by changing the name of the Advisory Committee on Hispanic American Affairs back to the original name of the board, the Advisory Committee on Mexican-American Affairs. Rep. Harder gave a second to the motion.

Discussion on the motion began with Rep. Ramirez stating that the Board name change had been made by Senator Vidricksen without any input from the Advisory Committee, itself. The Board wishes to retain the name because it is almost totally Mexican-American. Several other Committee members spoke for and against the amendment. The Chairman called for a vote and, a voice vote being indecisive, a show of hands was called for. The motion carried.

Discussion ensued as to the need for the governor's commission on fire protection. For the purpose of facilitating debate, Rep. Barr moved to eliminate the governor's commission on fire protection. This would leave it in the bill. Rep. Fuller gave a second to the motion. Various committee members spoke for and against the commission. The Chairman called for action on the motion. The motion failed. Rep. Barr was recorded as voting "no".

Rep. Hassler moved that SB 479 be passed as amended. Rep. Sughrue gave a second to the motion. The motion carried.

The Committee turned to SB 534, continuing director and division of DISC. The Chairman stated that the concern with this agency seems to be the lack of a long-term emergency back up plan. Questions as to whose responsibility it is to seek funds and a way to hire a consultant were made and commented on by Committee members. Money for a study could come out of the general fund or tacked onto the overhead of DISC, which could bill its agencies for services provided. The Chairman of the Communications, Computers and Technology Committee and the Ways & Means Subcommittee person dealing with this budget, have not been receptive to the idea of funding money for a study. It was debated that this has nothing to do with the extension of the Department for 8 years. The idea of writing a letter to those in charge with copies to leadership of both houses for an interim study was proposed. After further discussion, Rep. Walker moved that SB 534 be passed. Rep. Murphy gave a second to the motion. The motion carried.

Rep. Harder moved that the appropriate letters be written to the CCT Chairman, the Chairman of the Ways & Means Subcommittee and to Mr. Belleville plus the request of leadership for an interim study. Rep. Louis gave a second to the motion. The motion carried.

Discussion on SB 568, reducing members of Kansas adult authority, began. After several comments, Rep. Ediger moved that SB 568 be passed. Rep. Sughrue gave a second to the motion. The motion carried.

The meeting was adjourned at 10:58 a.m.

LWVK LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex

913/354-7478

Topeka, Kansas 66612

March 23, 1984

STATEMENT TO THE HOUSE GOVERNMENTAL ORGANIZATION ON SB 535, RE: THE SUBCOMMITTEE REPORT ON CORRECTIONS.

I am Ann Heberger representing the League of Women Voters of Kansas.

The League is very supportive of the following recommendations included in the Subcommittee Report:

Number 3 - Adequately funded and expansion of community corrections programs.

Number 6 - The establishment of a work release center in the Kansas City-Johnson County area.

Number 7 - The establishment of two additional honor camps, and we believe that they should be put where they will be of the most value to the State.

Number 9 - Competency testing in local communities.

We also agree with the rest of the recommendations, except for the following:

Number 2 - We believe strongly that changes should be made to rescind 1982 HB 3104 as it relates to D and E sentences. Frustration will only continue about where to put people unless sentencing patterns are changed. In our opinion, this would be the fastest way to start reducing the numbers. The League stopped talking long ago about wanting humane conditions in our prisons because of our image of being soft on crime, do-gooders, etc. But we think the time has come for all of us to be concerned, and many are, as to how we are treating human beings. The punishment is being locked up, not being crammed in like animals in cages. I have heard many legislators asking for a solution. Rescinding HB 3104 is certainly a good one.

As far as public safety is concerned, under present conditions we fear not only for the inmates, but certainly for the staff. Many of the same types of people are on straight probation, and many are now in community corrections programs. We do not think that any of us are any safer in our beds by shoving these people in prison for longer periods of time. We think that we are probably less safe when they get out.

Ann H. I

The League has tried to be supportive of everything that the DOC and the legislators have tried to do to obtain more beds, but frankly, we are not going to support any more prisons. We do not want any more tax dollars spent on construction. By the time anything would be completed, we wouldn't need it anyway. We think that it is more fiscally responsible to cut the sentences by a few months, especially at a time when the state is just beginning to recover from its' money problems.

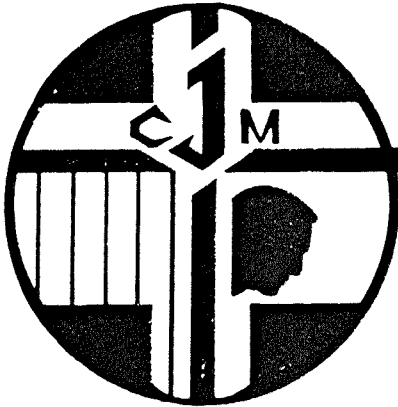
Number 10 - The League spent years trying to get female misdemeanants out of the state prison, and are happy to know that women were receiving any kind of evaluation at all. We are neither in favor or against co-corrections, but we do know that when only women were in their own facility, they were really discriminated against, mostly because of their small number. Even with the increase, it is still a small number compared to the men. We are not in favor of a new facility for women simply because we do not feel that they would fare any better than now. All we want is that they are provided with the same opportunities for work, education, health care, etc., that are provided for the men. With state policy on co-corrections, we think they are better off.

The League is sure that our concerns are really no different than those of you who serve on this Committee. We can only hope that you will consider what we believe to be at least a practical solution to a really terrible problem by rescinding the D and E statutes, and start looking at what sentencing has done to the prison system. We believe that a sentencing commission should be established, as recommended by the Committee on Prison Overcrowding.

Thank you for the opportunity to speak to you today.

Ann Heberger

Ann Heberger, Lobbyist
League of Women Voters of Kansas



Criminal Justice Ministry

229 South 8th Street
Kansas City, Kansas 66101
(913) 621-1504

Sister Dolores Brinkel, S.C.L.
DIRECTOR

TO: House Governmental Organization Committee
FROM: Criminal Justice Ministry
DATE: March 23, 1984
RE: Department of Corrections SB 535

On behalf of Criminal Justice Ministry of Catholic Charities for the Archdiocese of Kansas City in Kansas, I speak in favor of SB 535.

I. We support the following subcommittee recommendations:

1. Adequate funding and expansion of Community Corrections.
2. New work release center in the Kansas City area.
3. Competency testing at local mental health centers.
4. Expand educational and vocational programs at all institutions. Increase jobs for inmates - and the continuance of Corrections Industries Advisory Committee (HB 2619). Currently numerous inmates seek work, but none is available. Presently, the severe overcrowding in the prisons negates positive results.

II. I make the following additional recommendations:

1. Call for a study of the effectiveness of the 120-day modification of sentence practice and SRDC evaluation by Legislative Post Audit or other appropriate agency.
 - a. Among items to be addressed:
 - objectives of modification
 - achievement of objectives
 - extent of use of modification and evaluation report
 - fiscal impact
 - impact on community corrections
 - b. Role of defense attorney in filing motions. Some persons sent for short term shock incarceration have been kept for longer periods because the Department of Corrections did not know the judge's intent.
2. Return of portions of 1982 HB 3104 specifying minimum sentences for Class D and E felonies to their pre-1982 levels.

Atch. II

That first time, non-violent Class D and E felons receive a presumptive sentence of either probation or community corrections.

- a. 42 % of Kansas prisoners are D and E felons.
- b. Currently 113 Class E felony prisoners had no prior convictions.
- c. Between FY 1982 and FY 1983, the number of Class A and Class B felony admissions decreased, Classes C, D, and E increased.

KDOC - New Admissions

<u>Felony</u>	<u>% change FY 1982 to FY 1983</u>
A	- 9.7
B	- 6.9
C	+15.8
D	+14.6
E	+13.0

3. Public policy which would assure confinement of serious/violent criminal and more cost effective sanctions for non-violent offender.

That every proposed sentencing bill be accompanied by a fiscal impact statement.

- a. Average annual cost of Kansas imprisonment is \$11,000.
 - b. Average annual cost per adult in community corrections is \$2,000.
In addition, victims are more apt to receive restitution and families of offenders will less likely be on welfare.
4. The Legislature should adopt a statutory prison population cap equal to 90% of maximum capacity. When the prison population exceeds this cap for 30 consecutive days, an emergency release mechanism should be triggered.
 - a. Severely overcrowded prisons threaten the safety of staff and the community.
 - b. Michigan has released more than 900 non-violent offenders under a similar system since 1981 without major problems.
 5. That women prisoners should have equal opportunity, consistent with classification, to work, training, education and treatment programs.
 6. Given the present overcrowding in Kansas correctional institutions and the improved supervision at the co-correctional institutions, the Department of Corrections should have flexibility in placing inmates in various state institutions.

Kansas jails house men and women with proper separation of the sexes.

Kansas crime rate declines

By the Associated Press 3-1-84
Topika Capitol Journal

Kansas' crime rate declined 7.9 percent during 1983, Kansas Bureau of Investigation Director Thomas E. Kelly reported Tuesday.

The drop was led by a 12.6 percent reduction in the number of reported burglaries, but five other categories of violent and property crimes also were down from 1982.

Only the incidence of reported rape increased, up 5 percent, the KBI report showed.

The number of murders was off 1.4 percent, robberies were down 2.9 percent, aggravated assaults declined 2.2 percent, larcenies were off 6.4 percent and motor vehicle thefts were down 8.9 percent.

Overall, violent crimes dropped 1.8 percent and property crimes 8.3 percent for a reduction between them of 7.9 percent.

Statewide, there were two fewer murders, 136 in 1983 and 138 in 1982, while the number of robberies declined from 2,094 to 2,034 and aggravated assaults were down from 5,252 to 5,137.

Reported rapes went up from 597 in 1982 to 627 in 1983.

On property crimes, the number of burglaries dropped from 32,338 to 28,277, larcenies were down from 73,366 to 68,636 and motor vehicle thefts declined from 5,348 to 4,871.

Prisons for the long pull

More than halfway through the 1984 session of the Kansas Legislature, the Republican leadership suddenly has called on Gov. John Carlin for a long-range state prison plan. Better late than never, so the saying goes. The number of inmates has been on the upswing for 10 years, with a marked increase since the Legislature lengthened criminal sentences in 1982.

The oddity in timing is compounded in light of a special legislative interim committee that spent last summer studying the overcrowded corrections system. Its report was forwarded to the Legislature for consideration in the current session. Why the interim group did not deal with the long term to the satisfaction of the leadership is not known.

The prison population is nearing the maximum capacity of 3,886. Nobody, including the GOP leadership, should be surprised at the overcrowding. While lawmakers were considering longer minimum terms for less serious crimes two years ago, they were warned of the consequences if they put them in place. The state budget division estimated the proposed changes would require additional expenditures of \$97.3 million in new prison construction over a 12-year period beginning in 1983. The increased operating costs, it was estimated, would be an additional \$131 million. The prison population at that time was about 2,700.

Despite the prediction, the Legislature

approved tougher sentences. The average time served for less serious felonies has increased 111 percent, according to the Department of Corrections. By January of 1983 the number of prisoners stood at 3,129 and by December it reached 3,697.

Legislators have been somewhat aware of the problem. Currently the state administration is carrying out the building program recently approved by the Legislature. Between now and July of 1985 the optimum capacity (one prisoner to a cell) will be increased by about 33 percent. If the facilities are used to their maximum by placing two inmates in each cell there would be more than 1,150 new beds. The Legislature, however, either chose to ignore or refused to believe the population would surge as rapidly as it has.

The administration, in particular Michael Barbara, secretary of corrections, has attempted to offer the Legislature ideas on how to resolve the problem. He named an Advisory Committee on Prison Overcrowding that made a report in early January. Some of those recommendations should be considered.

The Legislature, and most certainly the Republican leadership, does not have to await the pleasure of the governor to begin developing a long-term solution for corrections. After all, the Legislature is, or should be, the policy-making body of the state. At least the leadership seems to perceive there is a crisis, which must be viewed as a positive development.

3-18-84 KC Star

adopted

PROPOSED COMMITTEE REPORT

Your Committee on

Recommends that Senate Bill No. 659 (As Amended by Senate Committee of the Whole)

"AN ACT concerning home health agencies; providing for the licensure and regulation thereof; granting powers to and imposing duties upon the secretary of health and environment; creating the home health services advisory council; providing penalties for violations; amending K.S.A. 75-5614 and repealing the existing section."

Be amended:

On page 1, in line 37, after the comma, by inserting "durable medical equipment companies which provide home health services by use of specialized equipment,"; in line 39, by striking "items"; in line 40, by striking "and"; following line 43, by inserting a new paragraph as follows:

"(d) "home health services aide" means an employee of a home health agency who is not licensed or professionally registered to provide home health services but who assists, under supervision, in the provision of home health services and who provides related health care to patients.";

Also on page 1, by relettering subsections (d) and (e) as subsections (e) and (f);

On page 2, in line 51 and 53, by relettering subsections (f) and (g) as subsections (g) and (h);

On page 6, in line 228, by striking "licensing agency" and inserting "secretary"; also in line 228, by striking "unli-"; by striking all of lines 229 and 230; in line 231, by striking "tions to patients" and inserting ", as a condition to continued employment by a home health agency: (1) Home health services aides, who were employed prior to the effective date of this act, to take and satisfactorily pass an examination prescribed by the secretary and, upon failure to pass the examination, to

Atch. III

successfully complete an approved course of instruction; and (2) home health services aides who are employed after the effective date of this act"; in line 232, after "and" by inserting "to take and satisfactorily pass"; by striking all of line 233;

On page 7, in line 234, by striking all before the period and inserting "prescribed by the secretary"; in line 240, by striking "licensing agency" and inserting "secretary"; also in line 240, by striking all after "require"; by striking all of line 241; in line 242, by striking all before "to" where it last appears and inserting "home health services aides"; in line 243, by striking "as a"; in line 244, by striking all before the comma; also in line 244, by striking "licensing"; in line 245, by striking "agency" and inserting in lieu thereof "secretary"; in line 247, by striking all after the period; by striking all of line 248; in line 249, by striking all before "may" and inserting "Home health services aides"; in line 250, by striking all after "instruction"; by striking all of line 251; in line 252, by striking "amination"; also in line 252, after "examination" by inserting "required under this section"; also in line 252, by striking "licensing"; in line 253, by striking "agency," and inserting "secretary and"; by striking all of lines 254 and 255; in line 256, by striking all before "same" and inserting "home health services aides. The"; also in line 256, after "examination" by inserting "shall be"; in line 257, by striking all after "the"; by striking all of line 258; in line 259, by striking all before the period and inserting "secretary to all home health services aides"; in line 260, by striking "licensing agency" and inserting "secretary"; in line 262, by striking "and certification" and inserting "required"; in line 263, by striking "licensing"; in line 264, by striking "agency" and inserting "secretary";

filed

PROPOSED AMENDMENT TO SENATE BILL No. 659
(As Amended by Senate Committee of the Whole)

On page 1, in line 35, by striking "shall" and inserting in lieu thereof "does"; in line 37, after the comma, by inserting "hospitals which are licensed by the secretary of health and environment,"

Atch. IV