

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Elwaine F. Pomeroy at
Chairperson

10:00 a.m./~~p.m.~~ on March 29, 1984 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~ were: Senators Pomeroy, Winter, Burke, Feleciano, Gaar, Gaines, Mulich, Steineger and Werts.

Committee staff present: Mary Torrence, Office of Revisor of Statutes
Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Elvin D. Perkins, Emporia Attorney
Keith Greiner, Emporia Attorney
John Atherton, Emporia Attorney
Secretary Mike Barbara, Department of Corrections
Sister Dolores Brinkel, Criminal Justice Ministry
Professor Kathryn Ramp, University of Kansas

Senate Bill 863 - Wills probated outside state; amendment not to effect existing litigation.

Elvin D. Perkins explained the purpose for appearing before the committee today. Senate Bill 509 was introduced at the request of Keith Greiner, which was enacted, signed and published in the Kansas Register March 15, 1984. They are asking, through this bill, that that legislation not apply to litigation that was pending in the district court or appellate courts at that time. He explained a resident of Kansas died in the Whipperwill accident, and there is a document of Sarah Reed, that was written on her personal stationery, but did not have her signature. Mr. Perkins said the court determined the will should not be entered into probate. Indiana University took this to court in Indiana, and the counsel for Indiana Foundation asked them to recognize this document as a will. Mr. Greiner filed a petition in Kansas seeking to admit this document, since it had been admitted to probate in Indiana, to recognize this as a will. The appeal was taken to Court of Appeals, while the matter was pending in district court in Kansas, amendments in 1982 made K.S.A. 59-2279 applicable to residents and nonresidents of Kansas. The will was undoubtedly past the effective date of July 1, 1982. Had not the effective date shown, this litigation would not have been admitted to probate. Mr. Perkins feels this committee was mislead. He did not have an opportunity to testify, at no fault of committee. It is a condition of an attempt of an attorney to use process of this legislature to effect the outcome of litigation that is pending; it is an attempt to win litigation without other parties being able to present their views and is improper. This is something that merits days of study and notice given to parties to argue the case.

Keith Greiner stated Mr. Perkins did tell the committee who he represents; he represents the administrator of this estate in Kansas and who has bitterly opposed this will in the state of Kansas. He has no standing to contest the will in court, so he is here to contest the estate. A copy of Mr. Greiner's memorandum in opposition to the bill is attached (See Attachment No. 1). A committee member inquired, are you asking us to serve as a court over the Supreme Court? Mr. Greiner disagreed and stated this would affect his case. The committee member explained some of the people on the committee are lay people, and I think it is wrong. Mr. Greiner replied, it is the duty of the legislature to decide what wills are going to be probated in Kansas. The committee member said, we can't pass a law and say you made a mistake in the Supreme Court.

John Atherton stated he was here on behalf of heirs of Sarah Reed as represented in Supreme Court and U.S. Supreme Court. This is the second time a situation had

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m. ~~noon~~ on March 29, 1984.

Senate Bill 863 continued

arisen where someone came to the legislature to make changes in the law. We feel we should be able to tell our clients what the law is and depend on that and not have the law changed on us in the middle of the fight.

Senate Bill 858 - Penalties and sentencing for certain crimes.

Secretary Mike Barbara testified in support of the bill. Copies of his three handouts are attached (See Attachments No. 2). He stated this bill contains three basic provisions. It amends current statutes to return the minimum sentence length for class D and E felonies to their pre-1982 length; it amends current statutes to provide that the presumptive sentence for first-time class E felons is probation; and provides new classification of certain offenses with threshold modifications. He stated this bill is a partial solution to the problem of prison overcrowding, and this is not about violent offenders; this is strictly property crime situation. Committee discussion was held concerning not reducing the penalty for violent crimes.

Sister Dolores Brinkel testified in support of the bill. A copy of her statement is attached (See Attachment No. 3).

A copy of a statement from J. Kenneth Hales, President of the Kansas Correctional Association, in support of the bill is attached (See Attachment No. 4).

House Bill 3049 - Access to certain records relating to juvenile offenders.

Professor Ramp testified in support of the bill and explained under the old juvenile code they enjoyed the cooperation they had to have access to the records. Under the new code, it requires a court order. There are 600 kids in different jurisdictions and it is a very cumbersome procedure now. They have never had to have a written order in the past, and are concerned about paper work this is going to generate. A committee member suggested a one sentence order or a court order for all of them involved in the research. The chairman said most police departments would like to see something that a judge has authorized. Professor Ramp replied, they agree with having a permanent record.

The meeting adjourned.

GUESTS

SENATE JUDICIARY COMMITTEE

NAME

ADDRESS

ORGANIZATION

Tom Ellis RH1 Wakarusa KS Vocational Ass

Frances Kastner Topeka KS Food Dealers

John G. Atherton Emporia Attorney

Elvin D. Perkins Emporia A Hy -

Wm W. Buchanan Topeka Kans Bar Assn.

Leland Atterbury Topeka Research + Data, Inc.

Shirley Atterbury Topeka Research + Data Inc

Mamie Buchanan Olathe Mutual Equip Co

Barbara Hooper Topeka Shawnee Co Sheriff

Tom Sargent Topeka Shawnee Co. Sheriff

Michael A. Barber Topeka DOC

Sister Dolores Brinkel Kansas City Ks. Crim Justice Ministry

John A. Quinn P.O. Box 708, Emporia, Kan. 66801 Attorney

Charles Simms Topeka Dept. of Corrections

David Barclay " " "

~~By Barbara~~

Kathryn Kamp University of Kansas Achievement Place R. Project

Jim Clark Topeka KC DAS

Gene Baker Winter

Scott Lambert Overcamp Park Overcamp Park

Kis Weber Lawrence Henry

Margie Vanburen Topeka OJA

Phil Magatha " " K.A. G.S.O.

Denny Burgess Wamego

BUD GRANT TOPEKA KCCJ

3-29-8
Attach. #1

MEMORANDUM IN OPPOSITION TO SENATE BILL NO. 863

To: Members of the Senate Judiciary Committee
From: Keith A. Greiner, Chartered, on behalf of Indiana
University Foundation
Date: March 29, 1984

A. Purpose of S.B. 863: To prevent Senate Bill No. 509, which was passed into law earlier in this session and became effective on March 15 upon publication in the state paper, from applying to the will of Sarah R. Reed which is currently on appeal before the Kansas Supreme Court.

B. Purpose of S.B. 509: To provide for the probate of a will in Kansas if the will has been probated in another state whether the decedent was a resident or nonresident of Kansas at death and whether the decedent died before or after July 1, 1982, which was the effective date of the 1982 amendment to K.S.A. 59-2230.

C. Purpose of the 1982 amendment to K.S.A. 59-2230: To provide for the probate of a will in Kansas if the will was probated in another state whether the decedent was a resident or nonresident of Kansas at death.

D. Reasons for my opposition to Senate Bill 863:

1. Senate Bill 509 is good legislation and should apply to the Reed will as well as any other will validly probated in another state. There is no logical or legal reason to make the Reed will the only will excluded from the terms of Senate

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Bill 509 simply because the will is before the Court at the present time.

- 2. Sarah Reed intended for her property to be used for the education of graduate library students as she stated in her will but her intentions will not be realized unless her will is probated in Kansas as required by Senate Bill 509. The only ethical and moral result in Sarah Reed's case is for her will to be probated in Kansas.
- 3. As for the technical, legal result in Sarah Reed's case, her will has been admitted to probate in Indiana where she made and executed it, and where testimony was given by the witnesses to the will and where other evidence about the will's execution was presented. Under any Kansas statutes applicable to this will, Indiana law is to be used to determine whether or not the will is properly executed, but the Kansas Supreme Court has never applied Indiana law to this will nor considered any of the evidence presented to the Indiana Court. The technical, legal result for this will to date in Kansas has been erroneous because the Kansas Supreme Court has refused to recognize that this will is a signed will under Indiana law.

E. Reed cases (a summary of the facts about Sarah Reed's will is attached as an Appendix):

(a) Reed I: In the first Reed case (229 Kan. 431 in 1981), the Kansas Supreme Court eliminated any will executed in another state from original probate in Kansas if the will is not signed at the end even though the law of the state where the will was executed does not require signing at the end. Kansas law requires that wills executed in Kansas be signed at the end (K.S.A. 59-606), but the laws of 42 other states do not require signing at the end. However, Kansas law (K.S.A. 59-609) allows wills to be originally probated in Kansas if those wills have been validly executed in another state and are in writing and "subscribed". In the first Reed case, the Court held that "subscribed" means "signed at the end", so the Reed will, which is not signed at the end, did not qualify for original probate in Kansas.

(b) Reed II: In the second Reed case (233 Kan. 531 in 1983), the Kansas Supreme Court eliminated any will not signed at the end from any kind of probate in Kansas (original probate or probate based upon probate in another state) even though the will was validly probated in another state and even though the will was executed in a state which did not require signing at the end if the decedent died before July 1, 1982. Kansas statutes from the time of statehood have always recognized a will for probate in Kansas if the will is validly probated in another state (K.S.A. 59-2230 before the 1982 amendment is an example). The Reed will was made and executed in Indiana, and after hearing the testimony of the witnesses to the will and receiving the other evidence about the will's execution, the will was admitted to probate in Indiana by the Indiana court as a signed and

witnessed will. The will was then brought to Kansas for probate based upon its probate in Indiana. In the second Reed case, the Court held that the statute, K.S.A. 59-2230 before amendment in 1982, only applied to the wills of nonresidents (even though the statute did not say that), so the Reed will did not qualify for any kind of probate in Kansas because Sarah Reed was a resident of Kansas when she died. The Court also said that the 1982 amendment to the statute did not apply to the Reed will because the petition for probate in Kansas was filed before the effective date of the amendment (July 1, 1982) and the Legislature had not indicated whether or not the amendment was to apply to the wills of persons who had died before the effective date.

(c) Reed III: The Reed will is currently before the Kansas Supreme Court on a petition for probate filed after the effective date of the 1982 amendment to K.S.A. 59-2230 (Docket No. 56,480).

F. Testimony on Senate Bill 509: Before both the Senate and House Judiciary Committees, the undersigned testified that the Reed case was currently on appeal before the Kansas Supreme Court for the third time. I was asked by both Committees what effect the bill would have on the current litigation and my response to each committee was the same. I said that I did not know whether it would help my case or not, and that I had been told by some that it would be of no help. The obvious implication by my presence in support of the bill was that I hoped it would help my case. Before the Senate Judiciary Committee I recall that Senator Hein asked me if the Court in Reed II had said that the applicable statute as amended in 1982

(K.S.A. 59-2230) was procedural but had then refused to apply it to the Reed will, contrary to the usual legal rule. My reply to Senator Hein was that the Court had done just that and that I had no explanation for their result. My recollection is that I then noted to the Committee that the Court had also said that the 1982 amendment indicated no intent that it was to be retroactive, that the Court had said that the amendment did not apply to the Reed petition for probate because the petition was filed before the amendment became effective, that the Reed petition had then been refiled under the statute as amended, and that the refiled petition was the basis for our third appeal then before the Court. Before the House Judiciary Committee, I recall that Representative Vic Miller asked me for the names of opposing counsel in the current litigation and whether they knew about the pending legislation. I told him the names of counsel and said that I did not know if they knew about the bill.

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Foundation

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APPENDIX TO MEMORANDUM IN OPPOSITION TO SENATE BILL NO. 863

SUMMARY OF FACTS ABOUT SARAH REED'S WILL

Sarah R. Reed died June 17, 1978, in the Whippoorwill boating disaster on Lake Pomona at Vassar, Kansas.

At the time, she was the Director of the School of Library Science at Emporia State University and resided in Emporia, Kansas. She had held that position since 1975. From 1971 to 1975 she was Assistant Dean of the Graduate Library School at Indiana University in Bloomington, Indiana. Prior to 1971 she held positions first as a school librarian at the University of Chicago and then as a teacher and administrator of graduate library schools at the University of Denver, the University of North Carolina, Florida State University, and the University of Alberta, Canada. She also served as executive secretary of the Library Education Division of the American Library Association, secretary of the Association's Committee on Accreditation and was a library education specialist with the U.S. Office of Education.

Her entire professional career was devoted to librarianship and to the education of library school students, and very little of her time was spent doing anything else. She was totally devoted to the preparation and training of librarians.

On frequent occasions she used her personal funds to assist her library students with the financial requirements of their education. And, she was constantly encouraging them to complete their education so that they too could train other librarians.

She was never married and was an only child. Her parents died some years before her and she had no close relatives. In fact, she had no relatives with whom she maintained a close relationship. Her heirs at law, who will take her property if her will is not admitted to probate in Kansas, are a few first cousins and a large number of second and third cousins.

From what she said and did, her friends and close acquaintances knew that she wanted whatever estate she had at her death to be used primarily for librarianship and the education of library school students. Her will, which has been admitted to probate in Indiana, states this to be her intention.

On June 2, 1973, Ms. Reed traveled from Bloomington, Indiana, to a meeting for minority persons in librarianship in Ann Arbor, Michigan. The trip was by automobile from Bloomington to Indianapolis, Indiana, and by plane from Indianapolis to Detroit, Michigan.

Ms. Reed had a great fear of flying and preferred to drive whenever possible when she traveled.

The day before the trip she wrote her will entirely in her own handwriting on both sides of a single sheet of her personal stationery. Her name, "Sarah R. Reed", was printed at the top on one side of the sheet. She did not write her name on the document.

On the plane between Indianapolis and Detroit she asked the three persons who accompanied her on the trip to sign her will as witnesses in blank spaces drawn by her. She told them

that the document was her will and she asked at least two of them to read it if they wished and they did so. At the time, all four persons were sitting in one row of seats on the plane, Ms. Reed and one witness on one side of the aisle and the other two witnesses on the other side of the aisle.

It was a habit of Ms. Reed's to write handwritten notes to persons without writing her name on the stationery if the stationery had her name or initials otherwise imprinted on it. At least one letter from her to a colleague at the University of Indiana was found written in her handwriting on the same stationery as her will was written, and she had not written her name on the letter.

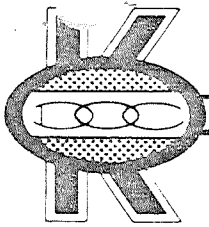
Following Ms. Reed's death, her will was found pinned inside one of her suitcases which she had frequently used in her travels. It was characteristic of Ms. Reed to put things which she felt to be important in places like the suitcase in which she placed her will. She also left a number of handwritten notes with various pieces of jewelry and art objects in her home stating to whom the item should be given at her death.

At the time of Ms. Reed's death, she owned real estate located at 1732 Rural, Emporia, Kansas; various items of personal property located in Emporia, Kansas; an account at the Indiana University Employees Federal Credit Union located in Bloomington, Indiana; various life insurance policies; and other miscellaneous property. One of the life insurance policies was in connection with the above credit union account and was payable to her estate. Two of her retirement annuity plans were payable upon

her death to Indiana University Foundation in Bloomington, Indiana.

When the Indiana Circuit Court admitted Ms. Reed's will to probate and appointed an administrator c.t.a., the Court found that she was domiciled in Indiana when she wrote her will on June 1, 1973, and acknowledged it before three witnesses on June 2, 1973, who duly attested her execution of it on a plane leaving Indianapolis, Indiana. The Indiana Court further found that the will qualified as a signed and attested will under Indiana law and that, at her death, Ms. Reed was domiciled in Kansas but owned property in Indiana by reason of her account at the Indiana University Employees Federal Credit Union.

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KANSAS DEPARTMENT OF CORRECTIONS

JOHN CARLIN — GOVERNOR

MICHAEL A. BARBARA — SECRETARY

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• 913-296-3317 •

attach #2

TO: SENATE JUDICIARY COMMITTEE
FROM: MICHAEL A. BARBARA, SECRETARY OF CORRECTIONS
RE: S.B. 858--Sentence Modifications
DATE: March 29, 1984

As introduced by the Senate Federal and State Affairs Committee, SB 858 contains three basic provisions. Each is described and discussed below.

1982 H.B. 3104 MODIFICATION

PROVISION

The bill amends current statutes to return the minimum sentence length for Class D and E felonies to their pre-1982 length as shown below:

<u>Felony Class</u>	<u>Pre-1982 Sentence Minimums</u>	<u>Current Minimum Sentence Lengths</u>
D	1-3 years	2-3 years
E	1 year	1-2 years

(NOTE: 1982 HB 3104 also changed the minimum sentence range for Class C felonies from 1-5 years to 3-5 years. This range is not affected by SB 858.)

IMPACT

During the fall of 1983, the Department of Corrections did an analysis of the portion of H.B. 3104 that affects D and E felons. That analysis concluded that the lengthening of minimum sentences for D and E felons alone conservatively adds 630 years that must be served for each new inmate admission group that comes into the state's prison system. An admission group is composed of all the inmates admitted for D and E offenses during a given fiscal year. Thus, for each year that HB 3104 remains in effect, an additional 630 inmate years must be served by persons convicted of Class E and E felonies in excess of what the group would have served without passage of the law.

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PRESUMPTIVE PROBATION FOR CLASS E FELONS

PROVISION

The bill amended current statutes to provide that the presumptive sentence for first-time Class E felons is probation. This would not apply, however, if they have committed or attempted to commit article 34, 35 or 36 crimes against persons.

IMPACT

There are currently 113 offenders in the prison population in this category. Had this provision been in effect, these offenders would have been probated unless the sentencing judge found compelling reason to incarcerate them.

RECLASSIFICATION OF CERTAIN OFFENSES/THRESHOLD MODIFICATIONS

PROVISION

The proposed new classification for each of the offenses listed below would be the following:

<u>Crime Value</u>	<u>New Classification</u>
\$ 0-299	Misdemeanor
\$ 300-2,999	Class E Felony
\$3,000 and above	Class D Felony.

These seven offenses would subject to the above multi-tiered classification.

<u>K.S.A.</u>	<u>Felony Classification</u>	<u>Crime</u>
21-3701	D	Theft over \$100
21-3704	D	Theft of services over \$100
21-3710	D	Forgery
21-3707	E	Giving of a worthless check over \$50
21-3708	D	Habitual giving of a worthless check
21-3720	E	Criminal damage to property over \$100
21-3729	E	Unlawful use of a financial card over \$50

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IMPACT

Because of the difficulty of gathering information on these offenses, the Department focused on one example--theft over \$100--to illustrate the impact of these changes. Current population contains 85 offenders incarcerated for theft only, where the dollar value of the from theft was between \$100-\$300.

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Kansas Department of Corrections

Profile of Offenders Incarcerated
for Class D and E Felonies: Fiscal Year 1983

Prepared March 21, 1984

Planning, Research, Evaluation,
and Accreditation Unit

Kansas Department of Corrections

Number of Previous Felony Convictions and Incarcerations
by Felony Class of the Most Serious Current Offense:
June 30, 1983 Population

<u>Number of Pre- vious Convictions</u>	<u>Number of Offenders in Each Felony Class of Most Serious Current Offense</u>					<u>Totals All Classes)</u>
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	
0	135	367	254	347	83	1,186
1	66	225	148	311	27	777
2	37	115	69	178	22	421
3	8	51	36	107	13	215
4 or more	<u>8</u>	<u>54</u>	<u>45</u>	<u>101</u>	<u>10</u>	<u>218</u>
Totals	254	812	552	1,044	155	2,817
*% Change from FY 82	(1.6%)	9.3%	4.6%	4.7%	(18.9%)	--

Number of Pre-
vious Incarcerations

0	161	466	315	460	89	1,491
1	57	176	139	267	23	662
2	24	96	44	105	9	278
3	6	41	16	41	7	111
4 or more	<u>5</u>	<u>22</u>	<u>23</u>	<u>43</u>	<u>6</u>	<u>99</u>
Totals	253	801	537	916	134	2,641

Missing observations: Felony class of most serious current offense = 77; number of previous convictions = 459; number of previous incarcerations = 635.

*Percent change in number of offenders in each felony class (from June 30, 1982); a number in parentheses is a negative value.

Taken from the FY 1983 Statistical Profile (Table 8, Page 29): P, R, E, & A Unit, 3-20-1984.

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Kansas Department of Corrections

Inmates with Overall Most Serious Offenses of Felony Classes D and E
 by Number of Prior Felony Convictions:
 June 30, 1983 Profile Population (N = 3,353)

<u>Statute</u>	<u>Offense</u>	<u>Total Class D Felons</u>	<u>Felony Class D</u>				
			<u>Number of Prior Felony Convictions</u>				
			<u>0</u>	<u>1</u>	<u>2</u>	<u>3+</u>	<u>Unknown</u>
21-3402	Murder II (Solicitation)	1	0	0	0	0	1
21-3404	Involuntary Manslaughter	4	4	0	0	0	0
21-3410	Aggravated Assault	71	26	17	8	10	10
21-3414	Attempted Aggravated Battery	8	4	2	1	0	1
21-3426	Attempted Robbery	12	8	0	2	1	1
21-3503	Attempted Indecent Liberties with a Child	2	1	1	0	0	0
21-3509	Enticement of a Child	3	2	1	0	0	0
21-3603	Aggravated Incest	6	3	0	1	0	2
21-3701	Theft (\$100 or more)	375	99	97	54	70	55
21-3708	Habitual Giving Worthless Checks	7	2	0	3	1	1
21-3710	Forgery	104	31	21	17	21	14
21-3711	Making a False Writing	3	0	1	1	1	0
21-3715	Burglary	550	152	159	87	99	53
21-3716	Attempted Aggravated Burglary	2	1	0	0	1	0
21-3718	Attempted Arson	1	1	0	0	0	0
21-4204	Weapons Violations	13	0	5	2	4	2
65-4127	Drug Offenses	26	13	7	2	0	4
Total (All Offenses)		1,188	347	311	178	208	144

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**Inmates with Overall Most Serious Offenses of Felony Classes D and E
by Number of Prior Felony Convictions:
June 30, 1983 Profile Population (N = 3,353)**

<u>Statute</u>	<u>Offense</u>	<u>Total Class E Felons</u>	<u>Felony Class E</u>				
			<u>Number of Prior Felony Convictions</u>				
			<u>0</u>	<u>1</u>	<u>2</u>	<u>3+</u>	<u>Unknown</u>
08-262	Driving with License Suspended, etc.	1	0	0	0	0	1
08-287	Habitual Violation, Unlawful Operation of Vehicle, When Prohibited	1	1	0	0	0	0
21-3404	Involuntary Manslaughter	14	8	2	2	1	1
21-3410	Attempted Aggravated Assault	5	2	1	1	0	1
21-3414	Attempted Aggravated Battery	2	0	0	1	0	1
21-3419	Terroristic Threat	8	3	1	1	0	3
21-3420	Attempted Kidnapping	1	1	0	0	0	0
21-3503	Solicitation Indecent Liberties	1	0	0	0	1	0
21-3509	Attempted Enticement of a Child	1	1	0	0	0	0
21-3511	Aggravated Indecent Solicitation of a Child	3	2	0	0	0	1
21-3516	Sexual Exploitation of a Child	1	1	0	0	0	0
21-3602	Incest	1	0	0	0	0	1
21-3603	Attempted Aggravated Incest	3	1	1	0	0	1
21-3605	Nonsupport of a Child	6	2	1	0	0	3
21-3609	Abuse of a Child	7	5	1	0	0	1
y1-3611	Aggravated Juvenile Delinquency	11	7	0	0	0	4
21-3701	Attempted Theft (\$100 or more)	36	15	3	4	5	9
21-3707	Giving a Worthless Check (\$50 or more)	27	5	6	5	6	5
21-3710	Attempted Forgery	3	1	0	2	0	0
21-3715	Attempted Burglary	21	9	3	3	4	2
21-3717	Possession of Burglary Tools	1	1	0	0	0	0
21-3720	Criminal Damage to Property (\$100 or more)	22	7	2	1	3	9
21-3729	Unlawful Use of a Credit Card in Excess of \$50	5	3	1	0	1	0
21-3806	Corruptly Influencing a Witness	1	1	0	0	0	0
21-3808	Obstruction Legal Process or Official Duty	1	0	0	0	0	1
21-3810	Aggravated Escape from Custody	5	1	1	0	1	2
21-3812	Aiding a Felon or Person Charged as a Felon	5	2	0	2	0	1
21-3814	Aggravated Failure to Appear	4	1	1	0	0	2
21-3825	Aggravated False Impersonation	1	0	0	0	0	1
21-3826	Traffic in Contraband in a Penal Institution	2	0	2	0	0	0
21-4201(1)	Weapons Violations	1	0	1	0	0	0
36-206	Fraudulently Obtaining Accommodations	1	0	0	0	0	1
65-4127	Drug Offenses	9	3	0	0	1	5
Total (All Offenses)		211	83	27	22	23	56

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**Inmates with Overall Most Serious Offenses of Felony Classes D and E
by Number of Prior Felony Convictions:
June 30, 1983 Profile Population (N = 3,353)**

Summary of Data: D and E Felons by Number of Priors

<u>Felony Class</u>	<u>Number of Priors</u>					<u>TOTAL</u>
	<u>Zero</u>	<u>1</u>	<u>2</u>	<u>3+</u>	<u>Unknown</u>	
Class D	347	311	178	208	144	1,188
Class E	83	27	22	23	56	211
Total (Class D and E)	430	338	200	231	200	1,399

Total Profile Population by Felony Class, Regardless of the Number of Priors

<u>Felony Class</u>						<u>Total Population</u>
<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>Unk</u>	
274	914	689	1,188	211	77	3,353

*"Other" includes the following three categories: "American Indian or Alaskan Native," "Hispanic," and "Asian or Pacific Islander."

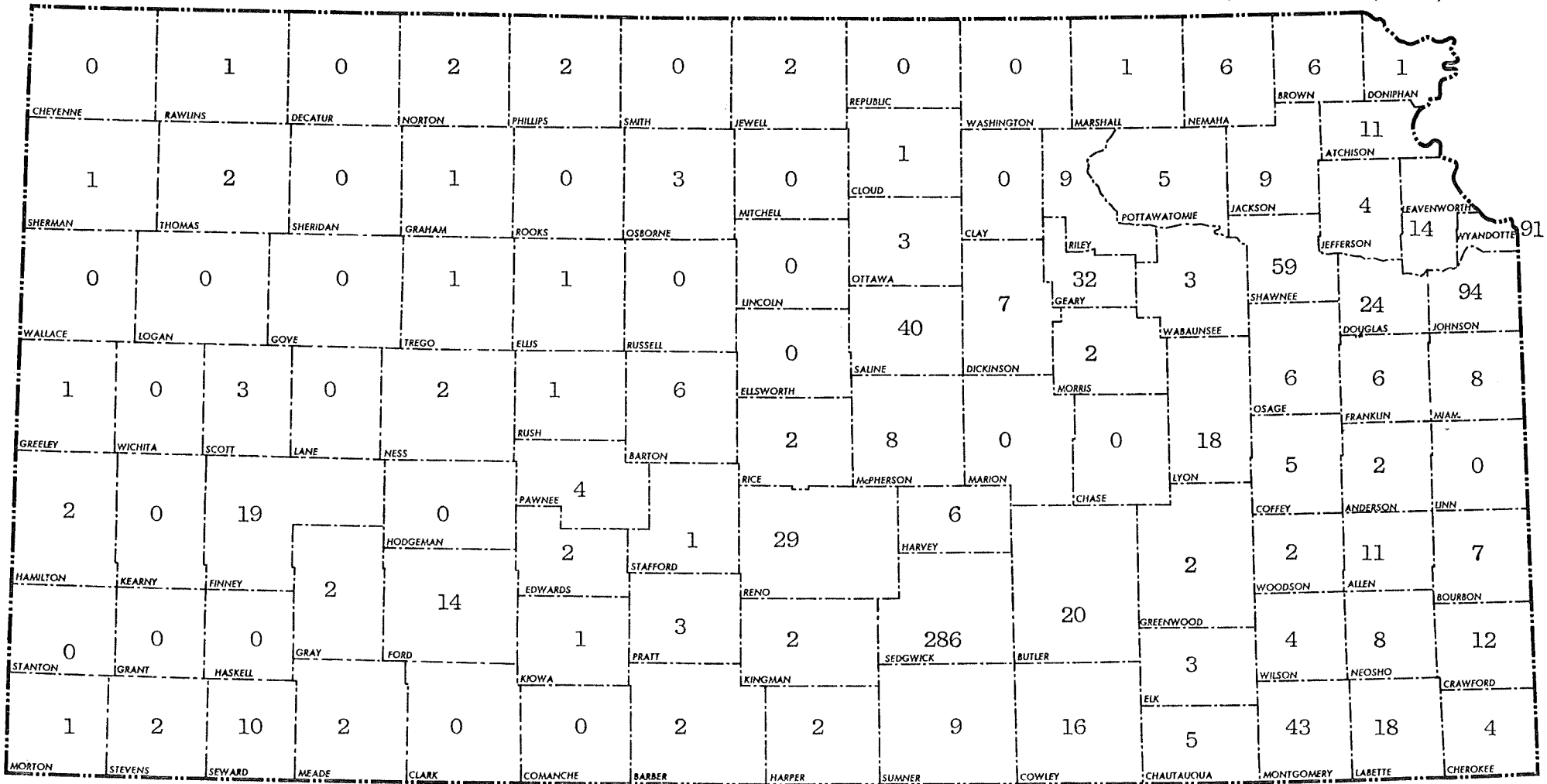
2

KANSAS DEPARTMENT OF CORRECTIONS

Number of Felony Class D Admissions by Court Actions;
FY 1983 by County of Conviction*

KANSAS

Total Class D Admissions: 1,060
Total Admissions (All Classes): 2,062



* The figures represent the initial admission of the period for each offender who entered the system as a result of a court action. Source of information: PGM-LATJDC, FY 1983. Prepared by the Planning, Research, Evaluation, and Accreditation Unit, March 20, 1984.

Handwritten initials or signature.

Kansas Department of Corrections

Felony Class of Most Serious Current Offense, by Inmate Age:

June 30, 1983 Population

Felony Class	Totals (All Age Groups)	Age Group (Years)							
		15-19	20-24	25-29	30-34	35-39	40-44	45-49	50+
Totals (All Classes): N	3276	207	1094	844	489	313	158	77	94
	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>
A	8	1	4	10	12	14	14	9	5
B	28	14	26	32	31	28	35	23	25
C	21	19	19	23	19	24	21	33	20
D	36	51	44	29	34	30	23	25	39
E	<u>7</u>	<u>15</u>	<u>7</u>	<u>6</u>	<u>4</u>	<u>4</u>	<u>7</u>	<u>10</u>	<u>11</u>
Totals (All Classes): %	100	100	100	100	100	100	100	100	100

Missing observations = 77.

Prepared March 20, 1984: Planning, Research, Evaluation, and Accreditation Unit.

#2

0229 tence for which shall be in accordance with the sentence speci-
0230 fied in the statute that defines the crime. If no sentence is
0231 provided in the statute, the offender shall be sentenced as for a
0232 class E felony.

0233 ~~Sec. 10.~~ K.S.A. 21-3701, 21-3704, 21-3707, 21-3708, 21-3710,
0234 21-3720 and 21-3729 and K.S.A. 1983 Supp. 21-4501 are hereby
0235 repealed.

0236 ~~Sec. H.~~ This act shall take effect and be in force from and
0237 after its publication in the statute book.

Sec. 10 (a) The minimum terms of imprisonment established by Section 9, subsections (d) and (e) of this Act, shall be applied retrospectively to those individuals sentenced for offenses committed after July 1, 1982.

(b) Any individual sentenced to a minimum term of imprisonment in excess of one year for a Class E felony committed after July 1, 1982, shall automatically have that minimum term of imprisonment reduced to one year.

(c) Any individual sentenced to a minimum term of imprisonment in excess of one year for a class D felony committed after July 1, 1982, shall have that sentence reviewed by the sentencing court within sixty days of the effective date of this act. The sentencing court may resentence the individual to a minimum term of confinement as provided by Section 9, subsection (d) of this act.

(d) An individual whose minimum terms of imprisonment is modified by this section shall be parole eligible as provided by K.S.A. 1983 Supp. 22-3717.

(e) An individual who has had a parole eligibility hearing based on the minimum term of imprisonment prior to modification as provided by subsections (b) and (c) shall be scheduled for a parole hearing within sixty days of any reduction of the minimum term of imprisonment resulting from this act.

Sec. 11

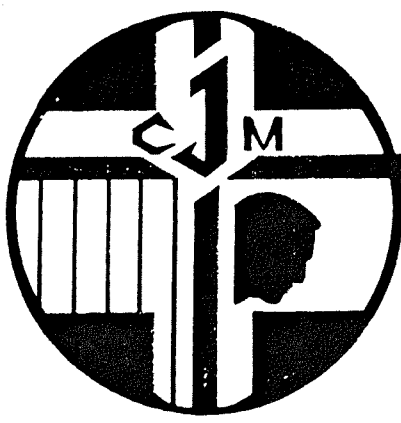
Sec. 12

Kansas Register

3-29-84

87116

Attach #3



Criminal Justice Ministry

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

Sister Dolores Brinkel, S.C.L.
DIRECTOR

TO: Senate Judiciary Committee
FROM: Sister Dolores Brinkel, Criminal Justice Ministry
DATE: March 29, 1984
RE: SB 858 - Presumptive sentence for E felons; Property theft value; Worthless check value; D and E felony sentences

On behalf of Criminal Justice Ministry of Catholic Charities for the Archdiocese of Kansas City in Kansas, I speak in support of this bill, based on positions set by our advisors who include defense and prosecuting attorneys, correctional professional, volunteer, business person and clergy.

1. The proposals in this bill would assure the confinement of serious/violent criminals in the prison and more cost effective sanctions for non-violent offenders.
 - 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.
2. We support the return of minimum sentences for Class D and E felonies to their pre-1982 levels. 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

Attch. 3

#3

Senate Judiciary Committee - SB 858
March 29, 1984

2

3. Regarding raising the value of property theft for Class E felony to \$300, a survey of the states contiguous to Kansas reveals the following dollar value for E felony theft:

<u>STATE</u>	<u>DOLLAR VALUE</u>	<u>DATE</u>	<u>CRIME</u>	<u>PENALTY</u>	<u>NOTES</u>
Oklahoma	\$ 50	(1982)	Grand Larceny	Up to 5 yrs.	Increase by 150%; had been \$20
Colorado	\$100	1963	Class C	1 to 7 yrs.	
Missouri	\$150	1981	Class C	Up to 7 yrs.	
Nebraska	\$300	1982	Class IV	0 - 5 yrs. \$10,000 fine	



President J. Kenneth Hales
 Secretary Jane Alford
 Treasurer Tom Padilla

Vice President Heidi Wallace
 President Elect Michael Thurber

March 29, 1984

STATEMENT TO THE SENATE JUDICIARY COMMITTEE IN SUPPORT OF SB 858

Mr. Chairman and Members of the Committee:

The Kansas Correctional Association, established in 1974, is a state-wide nonpartisan organization. The K.C.A. supports and promotes the acceptance of corrections as a profession, and encourages membership of professionals who work in all disciplines of the criminal justice field in Kansas.

The Kansas Correctional Association through action of its' Board of Directors at the February meeting did endorse all 16 recommendations submitted by the Advisory Committee on Prison overcrowding to Secretary Barbara. We therefore support SB 858, and endorse the changes in the criminal code as proposed in the bill:

1. That a presumptive probation sentence for a class E felony be established;
2. That statutes on theft be raised in categories as proposed in this bill;
3. That D and E felony classifications be returned to pre-1982 statutes.

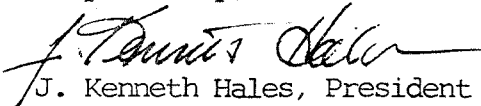
Although the causes for prison overcrowding in Kansas, and throughout the nation are complex, sentencing and release policies and practices, in our opinion, have played a major part in contributing to the overcrowding conditions in our State's prisons.

We think that all recognize that prison space constitutes a scarce and expensive resource that must be used judiciously when other alternatives cannot provide adequate control and protection of the public. By changing or reducing certain sentences of first and non-violent offenders we believe that prison space can be used to better advantage than it is being used at this time. The use of community corrections programs, restitution and community service, we believe, serves victims far better than lengthy incarceration.

The KCA also want to be on record as supporting the Prison Overcrowding Committee's recommendation that a state-wide Commission, representing all aspects of the criminal justice system and the public, be established to study and reassess the State's sentencing philosophy, and make recommendations to the 1985 Legislature.

We urge your support of SB 858, and thank you for the opportunity to speak before you today.

Respectfully,


 J. Kenneth Hales, President
 Kansas Correctional Assoc.