

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at  
Chairperson

10:00 a.m./p.m. on February 21, 1985 in room 514-S of the Capitol.

All members ~~were~~ present ~~except~~ Senators Frey, Hoferer, Feleciano, Gaines, Langworthy, Parrish, Steineger, Winter and Yost.

Committee staff present:

Mike Heim, Legislative Research Department  
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Charles Simmons, Legal Council, Department of Corrections  
Pat Ireland, Administrator of Community Corrections  
Michael Thurber, Kansas Correctional Association  
Jon Cameron, Sedgwick County Community Corrections Program  
Ann Heberger, League of Women Voters of Kansas  
Sister Dolores Brinkel, Criminal Justice Ministry, Catholic Charities

Senate Bill 168 - Community corrections, chargebacks, custody.

Charles Simmons, Legal Council, Department of Corrections, explained the recommended statutory changes by the Department of Corrections and the fiscal impact of the bill. Copies of the recommendations and fiscal reports are attached (See Attachment I). During committee discussion, Mr. Simmons stated it is not the department's responsibility to decide who goes into that program. They believe it is up to the district courts in that county to run that program and decide who goes into the program and who does not. A committee member inquired, if you had the authority to decide who went into the community corrections program, would you be willing to accept the responsibility for it? Mr. Simmons replied, if the legislature says that, we will take responsibility.

Pat Ireland, Administrator of Community Corrections, explained the chargeback mechanism of the bill.

Sister Dolores Brinkel, Criminal Justice Ministry, testified they are in support of the bill because it expedites the continued implementation of community corrections. A copy of her comments is attached (See Attachment II).

Michael Thurber, President of the Kansas Correctional Association, testified in support of the bill. He stated the bill is a type of bill that is a positive step in identifying potential problem areas of which the association feels can be averted. A copy of his testimony is attached (See Attachment III).

Jon Cameron, Sedgwick County Community Corrections Program, discussed the impact the bill would have on Sedgwick County. He stated there is a psychological difference between one particular judge and the Department of Corrections. If you have someone in prison or not in prison, who has the responsibility for them? If the defendant is in the Department of Corrections, someone should allow good time credits. Someone from the Department of Corrections should be able to discharge the person from the program. They run into a situation where a person is ready to be discharged from the program and there is not a way to get them out.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,  
room 514-S, Statehouse, at 10:00 a.m./~~pm~~ on February 21, 1985.

Senate Bill 168 continued

Ann Heberger, League of Women Voters of Kansas, testified in support of the bill. She stated the league believes that the passage of the bill would assist in better administration and implementation of the Community Corrections Act. A copy of the testimony is attached (See Attachment IV).

Senate Bill 169 - Consecutive sentences; determination of beginning, release eligibility.

Charles Simmons explained the bill proposal before them is to clarify the intent they only get that credit, which they would have received, had they earned all of their good time credits. A copy of the proposed amendment is attached (See Attachment V).

Senate Bill 170 - Issuance of subpoenas by secretary of corrections.

Charles Simmons explained the bill clarifies issuance of subpoenas by the Department of Corrections. A committee member inquired why the department needs this power? Mr. Simmons replied they need to subpoena bank records, medical records, telephone records. Further committee discussion was held.

Senate Bill 171 - Prohibiting persons convicted of felonies from being employed by department of corrections.

Charles Simmons explained lines 30 - 35 in the bill and stated the department is looking for some authority to back the policy any person convicted by a court of law punishable by imprisonment for more than a year will not be hired.

Sister Dolores Brinkel, Criminal Justice Ministry, testified she has deep reservations about the bill. She stated the exclusion of those whose conviction has been expunged is a travesty of justice. A copy of her testimony is attached (See Attachment VI).

The meeting adjourned.

Copy of the guest list is attached (See Attachment VII).



GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 2-21-85

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Maggie Myers	Ulysses, Kansas	Close-up Kansas
Marsha Walker	Ulysses, Ks.	Close-up Kansas
Dawn Titzsimmons	Ulysses, KS	Close-up Kansas
Candace Cott	"	"
Charles Simmons	Topeka	Dept. of Corrections
Joy Clark	Topeka	KCOAA
Don Byrd	Meade	Close-up Ks
Loy Wallis	Meade	close-up Ks.
Leanne Rempel	Meade, KS	CloseUp Kansas
	"	"
CHARLENE FRUENHALL		
Kelly Doerksen	Meade Ks.	CloseUp Kansas
Sister Dolores Brinkel	Kansas City Ks	Criminal Justice Ministry
Pat Ireland		Dept of Correc.
Bill Lucas		DOC
Margie Van Buren	Topeka	OSA
David Rubin	"	KAOM
MICHAEL THURBER	Topeka	Kansas Correctional Assoc.
Tom Magg Kurth	Topeka	SHAWNEE COUNTY DEPT of CORRECTIONS
RICHARD KLIVE	Topeka	"
Jon R. Cameron	WICHITA	JEDENWICK COUNTY COMM. CORR. DEPT
Mike Stotsky	Lawrence	Intern Sen. Perish
Gill Stevens-Ludgryn	Salina, Ks.	Ks. Society Insurance Women
Margaret L. Stemmore	McPherson, Ks	KSIN
Gene & Leaf	Lawrence, Ks	Ins. Women Topeka
Marie Culver	Topeka, Ks	Sargent-Wanamaker, Inc

2/21/85  
Attach. VII



COMMUNITY CORRECTIONS  
1985  
RECOMMENDED STATUTORY CHANGES

I. Issue: Chargeback rate based on prior year's per diem cost of confinement

The per diem chargeback rate is now based on the per diem cost of confinement to the general fund. This policy subjects the participating counties to yearly fluctuations in the amount of funds available to operate programs which are not related to program performance. In fact, if all other factors are constant, a decrease in prison population results in an increase in the per diem cost of confinement and thus an increase in the counties chargeback rate.

Similarly, if prison population remains constant and the Department of Corrections reduced overcrowded housing through expanding the number of facilities, the per diem cost of confinement goes up. Community corrections counties pay more to chargeback costs and have less money for programs under either scenario.

It is difficult for counties to plan from year to year when per diem chargeback rate fluctuates yearly. For example, an increase of \$2.00 a year would mean approximately \$37,000 less funds on which to operate programs for Wyandotte county. This means a county would have to cutback staff or other services and supervision even if the same number of chargeback offenders are sent to prison from that county as the year before.

Proposed Statutory Remedy:

Provide that a fixed chargeback rate of \$28.84 per day be established. \$28.84 is the average cost of confinement for the last five years.

II. Issue: Chargeback for Technical Parole Revocations

Currently, the Community Corrections Act requires charging for all chargeback category commitments to the Department of Corrections. This includes offenders returned to the D.O.C. by the Kansas Adult Authority on technical parole violations. The intension of chargebacks is to provide an incentive to the participating counties to maintain in the community the types of offenders who would formerly have been committed to the Department of Corrections. The district court and the district attorney are by statute represented on the county's community corrections advisory board, and the community corrections programs provide recommendations on sentencing to the district court. If the county through the district court commits an offender to the Department of Corrections, it is a local decision.

However, it is not a local decision when a technical parole violator is revoked. It is a Kansas Adult Authority decision. The counties have already paid for the commitment of such an offender, but have to again resume payment if the Adult Authority over whom they have no control recommits such an offender.

Proposed Statutory Remedy:

Exempt technical parole violators from charges.

2/21/85  
Atch. I

III. Issue: Charges for dual commitments from participating and non-participating counties.

Currently, participating counties are charged the full per diem chargeback rate when both a participating and non-participating county commit an offender. If a non-participating county commits an offender, that offender will go to prison regardless of what the participating county does. If a non-participating county has first sentenced the offender to the custody of the D.O.C., the district court in the participating county is very unlikely to grant a paper probation or leave on probation an offender who will be serving a prison sentence anyway.

Proposed Statutory Remedy:

Charge half the per diem cost of confinement for offenders committed from both a participating and non-participating county. This would still maintain an incentive for participating counties to grant probation to the offender, while acknowledging the fact that sentencing in the other county is of equal importance in diverting the offender from prison.

IV. Issue: Placement of offenders in Community Corrections by the District Court.

Offenders in community corrections programs are on probation with participation in community corrections program as a condition. One court has attempted to commit offenders to the Secretary of Corrections with the Secretary to place the offender in community corrections. This poses two serious problems. Community Corrections was established as a local program with local decision making as to sentences. If the Secretary assigns people to community corrections, the local decision making is lost. Secondly, the Community Corrections Act requires assessing of charges for each day served in the custody of the Secretary. Therefore, counties would still have to be charged even if the Secretary placed the offender in a community corrections program.

Proposed Statutory Remedy:

Provide specific language in the Act which states that an individual in community corrections shall not be considered as being in the custody of the Secretary.

FISCAL IMPACT OF S.B. 168  
COMMUNITY CORRECTIONS ACT AMENDMENTS

1. \$28.84 Fixed Per Diem Chargeback:

The per diem rate is currently \$28.00. The proposed changed to a fixed \$28.84 per day chargeback would result in \$55,345 more going to chargebacks than the current year. This means counties would receive \$55,345 less in state funds in a year.

2. Parole Revocations Technical:

There were 41 chargeback technical parole violators in FY 84 who served 2,418 days. Including projections for Montgomery, counties would be charged \$74,869 for technical parole violators in a year. Therefore counties would receive \$74,869 more in state funds under the proposed change to not charge for technical parole violators.

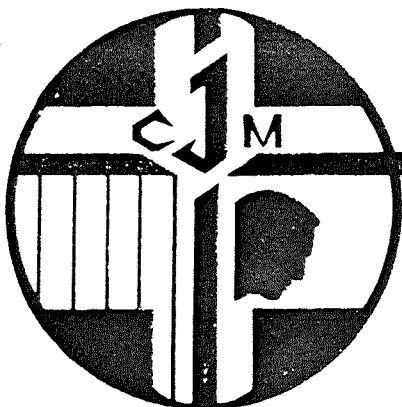
3. Charging counties one-half the per diem charge when the individual committed is from a non-community corrections county:

There are an average of 14 such commitments per year. The combined annual charge for such commitments including projections for Montgomery would be \$62,294. Therefore, the counties would receive \$62,294 more in state funds in a year.

TOTAL FISCAL IMPACT:

\$ 81,818	Total fiscal impact (funds counties receive)
-\$ 55,345	Per diem charge
+\$ 74,869	Technical parole revocation
<u>+\$ 62,294</u>	Half charges
= \$ 81,818	Total

2-21-85



# Criminal Justice Ministry

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

Sister Dolores Brinkel, S.C.L.  
DIRECTOR

TO: HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

FROM: CRIMINAL JUSTICE MINISTRY  
CATHOLIC CHARITIES - ARCHDIOCESE OF KANSAS CITY IN KANSAS

DATE: FEBRUARY 21, 1985

RE: SB 168 (COMMUNITY CORRECTIONS AMENDMENTS)

I support SB 168 because it expedites the continued implementation of Community Corrections.

The amount of the Community Corrections grant to the County is based on a static figure. It is more equitable that the amount of chargeback likewise be stabilized.

My office and its Advisors in conjunction with a National Catholic Charities position will continue its support of "non-incarcerative sentences for those convicted of non-assaultive crimes."

Therefore I urge this Committee to favorably report this bill.

2/21/85  
Attach. II



2-21-85



President Michael Thurber  
 Secretary Linda Moppin  
 Treasurer Terry Howe

Vice President Sandy Hunter  
 President Elect Heidi Wallace

Greetings

My name is Michael Thurber, President of the Kansas Correctional Association. I speak to you today in the capacity of the current president of the Kansas Correctional Association. The Kansas Correctional Association is an organization consisting of correctional and criminal justice professionals in adult and juvenile services. The Association was formed in 1974 and joined affiliation with the American Correctional Association in 1981. The Kansas Correctional Association has 330 state members which are linked with the national American Correctional Association's 15,000 plus members.

The Kansas Correctional Association is supportive of Senate Bill 168 regarding the Community Corrections Act. We feel the bill is supportive of the participating community corrections act counties. The re-establishment of a per diem rate and the additional wording regarding paroled individual re-commitment to the Secretary of Corrections is warranted.

We also see the commitment of individuals from both the non-participating counties and participating counties being 1/2 the rate, as a correct procedure to follow.

As stated in the Performance Audit Report provided by the Legislative Post Audit Committee, the Community Corrections Act of Kansas is relatively new. Senate Bill 168 is a type of bill that is a positive step in identifying potential problem areas of which our Association feels can be averted.

I appreciate this committee allowing myself and our Association to speak in behalf of this bill.

2/21/85  
 Attach. III

# LWVK LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex      913/354-7478      Topeka, Kansas 66612

February 21, 1985

STATEMENT TO THE SENATE COMMITTEE ON JUDICIARY IN SUPPORT OF SB 168.

I am Ann Hebberger speaking for the League of Women Voters in support of SB 168.

The League believes that the passage of the bill would assist in better administration and implementation of the Community Corrections Act.

We think that by removing some of the money restrictions on chargebacks, counties would be better able to fund programs for victims, prevention of abuse and delinquency, and other such programs that should be a part of a comprehensive community corrections plan. In some cases, removing such restrictions might even prevent some county plans from going broke.

We urge your support of SB 168.

Thank you for the opportunity to speak before you today.

2/21/85  
Attch. IV

0083 ceeding ~~the maximum credit toward parole eligibility~~ *an amount*  
 0084 *equal to the previous minimum sentence less the maximum*  
 0085 *amount of good time credit that could have been earned* for the  
 0086 purpose of determining the sentence begins date and the parole  
 0087 eligibility, conditional release and net maximum dates.

on the minimum sentence,

0088 (e) When consecutive sentences are imposed which are to be  
 0089 served consecutive to sentences for which a prisoner has been on  
 0090 probation, parole or conditional release, the amount of time  
 0091 served on probation, parole or conditional release shall not be  
 0092 credited as service on the aggregate sentence in determining the  
 0093 parole eligibility, conditional release and net maximum dates.

0094 (7) When a definite and an indefinite term run consecutively,  
 0095 the period of the definite term is added to both the minimum and  
 0096 maximum of the indeterminate term and both sentences are  
 0097 satisfied by serving the indeterminate term.

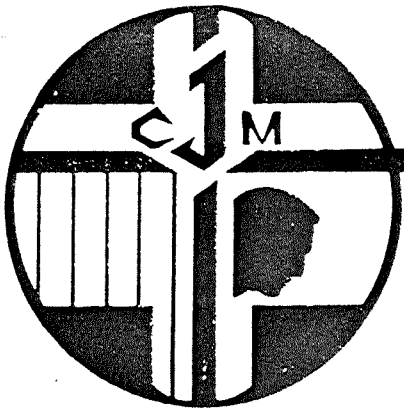
0098 (8) When a defendant is sentenced in a state court and is also  
 0099 under sentence from a federal court or other state court or is  
 0100 subject to sentence in a federal court or other state court for an  
 0101 offense committed prior to the defendant's sentence in a Kansas  
 0102 state court, the court may direct that custody of the defendant  
 0103 may be relinquished to federal or other state authorities and that  
 0104 such state sentences as are imposed may run concurrently with  
 0105 any federal or other state sentence imposed.

0106 Sec. 2. K.S.A. 1984 Supp. 21-4608 is hereby repealed.

0107 Sec. 3. This act shall take effect and be in force from and  
 0108 after its publication in the statute book.

2/21/85  
 Attch. II

2-21-85



# 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: CRIMINAL JUSTICE MINISTRY - CATHOLIC CHARITIES, ARCHDIOCESE OF  
Kansas City in Kansas

Date: February 21, 1985

Re: SB 171 (Prohibiting persons convicted of felonies from being  
employed by Department of Corrections.)

I have deep reservations about SB 171.

1. The proposal excludes any person convicted of a Class A,B,C,D, or E crime from employment in corrections.  
I presume the intent is to exclude those who have served time from working in the prison (because they might more easily be compromised.)  
I point out that a "convicted person" may or may not have served prison time.
2. The proposal is based on an inherent premise that our criminal conviction system is a failure, or the assumption that "once-a-criminal, always-a-criminal". I disagree with this assumption.
3. The inclusion of any person convicted of an A,B,C,D, or E felony is too broad. One who has been convicted of nonsupport of a child or spouse, or who has impaired a security interest, or has tampered with a sports contest or misused public funds, could be excluded from corrections employment. Some persons, e.g. drug counselor, might be good employees, inspite of a felony conviction. I can appreciate the desire of corrections professionals to exclude a paroled murderer, a rapist, or drug dealer from prison employment, but this bill goes beyond the assaultive or sexual convictions. I suggest that there are exceptions and that on a "by case" basis, the Secretary of Corrections be empowered to handle these.
4. The exclusion of those whose conviction has been expunged is a travesty of justice. Expungement means the convicted have had to prove their changed behavior, that they are productive citizens. Expungement proceedings may not be initiated for five years after completion of parole.

2/21/85  
Attch. VI