

Approved February 20, 1987
Date

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 19, 1987 in room 514-S of the Capitol.

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

Committee staff present:

Mike Heim, Legislative Research Department
Gordon Self, Office of Revisor of Statutes

Conferees appearing before the committee:

Elwaine Pomeroy, Kansas Parole Board
Charles Simmons, Department of Corrections
Jim Clark, Kansas County and District Attorneys Association

Senate Bill 202 - Crimes and punishments, sentencing.

Elwaine Pomeroy, Kansas Parole Board, stated the three bills being heard today were introduced by this committee at the request of the parole board. He explained Senate Bill 202 to the committee. He said he and Charles Simmons, Department of Corrections, had worked together on the proposed amendment concerning computation of the maximum sentence (See Attachment I). He explained the proposed amendment to the committee.

Jim Clark, Kansas County and District Attorneys Association, testified the association is in support of the bill.

Senator Gaines moved the adoption of the proposed amendment. Senator Steineger seconded the motion, and the motion carried. Senator Gaines moved to amend the bill by changing the effective date, upon publication in the state register. Senator Steineger seconded the motion, and the motion carried.

Charles Simmons, Department of Corrections, stated the department is in agreement with the proposed amendment.

Senator Steineger moved to report the bill favorably as amended. Senator Gaines seconded the motion, and the motion carried.

Senate Bill 203 - Sentencing, time served as part of sentence, when.

Elwaine Pomeroy explained the bill to the committee. He stated the parole board is mostly interested in the change on page 2, lines 66 through 82 concerning violation of released inmate's condition of release (See Attachment II).

Charles Simmons explained the other four proposed amendments. In line 48 strike "three" and insert "five"; in line 76 insert "issuance of the warrant for" prior to "violation"; in line 78 strike the comma after "state" and insert "for reasons other than the parole violation warrant issued by the secretary of corrections,"; and in line 80 strike "violation of conditions" and insert "issuance of the warrant".

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m.~~p.m.~~ on February 20 19, 1987.

Senate Bill 203 continued

Jim Clark, Kansas County and District Attorneys Association, stated the organization is in support of the bill.

Senator Gaines moved the adoption of the proposed amendment in lines 66 through 82. Senator Talkington seconded the motion, and the motion carried.

Senator Gaines moved to adopt the proposed amendments in lines 48, 76, 78 and 80. Senator Burke seconded the motion, and the motion carried.

Senator Steineger moved to report the bill favorably as amended. Senator Feleciano seconded the motion, and the motion carried.

Senate Bill 279 - Crimes and punishments relating to good time credits.

Elwaine Pomeroy testified this bill makes no change in the substantive law at all. He stated the good time table is in rules and regulations which makes it not readily available. They want the table readily available for the judge who imposes the sentences. This table also shows how much time a person has to serve before reaching conditional release date. In response to a question, Mr. Pomeroy replied when people have a life sentence the eligibility for parole is after serving 15 years.

Following committee discussion, Senator Talkington moved to report the bill favorably. Senator Hoferer seconded the motion, and the motion carried.

The meeting adjourned.

A copy of the guest list is attached (See Attachment III).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 2-19-87

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Charles Simmons	Topeka, Kansas	Dept. of Corrections
Julie Fischer	Salina, KS	Asbury School of Nursing
Teresa Taylor	2332 N. 88 KCK	KU school of Nurs / RN
Pat Fuentun	1016 W 71 Jan Keano	KU BSN / RN
Judy Schmiedeler	4810 W. 69th Ave P.O. Box 103	KUMC BSN
Margie Masicelli	3731 Eaton, KCK, 666103	KUMC / BSN
Clifford Amstutz	Box 237, Hasston, KS.	Astell Hospital, RV-
Buie Salisbury	320 Roosevelt	Washburn ULLC
Yamie Jager	Salina, KS	Asbury School of Nursing
Penny Kerby	Salina, KS	Asbury School of Nursing
Diana Darbo	Salina	Asbury Hosp School of Nursing
Shannon Pfeffer	KC KS	KUMC
Michele Melendres	10023 W 86th Ave OP, KS	KUMC
Barbara Blansett	771 Box 27374 66606 ^{Atlatla}	KUMC student nurse
NANCY Inderwiesen	6718 Granada P.V. KS 66208	KUMC
Cynthia Brogdon	4230 Campbell, KCMO	KUMC
Maggie Sherman	7904 N. Cavalon Kemo	KUMC
Douglas A. Miller	2011 Washburn Terr.	Washburn Univ.
Angela Newitt	Box 66 Seranton, KS	" "
Natalie Daum	KC KS	KU Med Center
Katie Grieb	3602 Rainbow #205 K.C. KS	KUMC
Harmony Dool	1937 Hiwood Topeka	Washburn University
Sharon Shurely	Topeka	Kansas NARAC
DAN THIBAUT	822 LINCOLN	Washburn U.
David Lowry	3212 Eveningside #9	Washburn Univ.

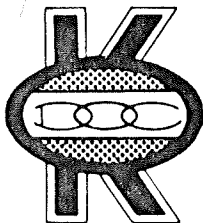
Attach III
Senate Judiciary
2-19-87

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: _____

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Patti Wassenberg	5307 SW 13th Ct #2	Washburn University
Robin Brack	1981 Seminole, Olathe	KUMC
Teresa Greene	5352 Neasha St KS	KUMC
Theresa Beigno	7019 Mackey Dr KS	KUMC
Ladonna Lyles	6909 W. 32nd #1A Mission, KS 66202	KUMC
Rita Smith	10926 West 61st Terr. Shawnee, KS, 66203	KUMC
Julie Brumbyrd	3602 Rainbow L.C. KS 66103	KUMC
DEBRA KERSKAMM	8419 UNIVERSITY BLVD PRAIRIE VILLAGE, KS. 66207	KUMC
Mitzie Jacobson	1201 W 15th St. Shawnee Mission, KS 66205	KUMC
Andrea Clifton	5920 Reels Rd #300 Mission, KS 66202	KUMC
Lou Jean Dubay	1629 SW 37th Ave #514 Topeka, KS 66609	Washburn University
Jordan Thorne	2911 Central Park Apt B2 Topeka, KS. 66611	Washburn University
Susan Graham	10908 W. 66th St #1002 OVERLAND PARK KS 66203	KUMC
SUSAN PEREHO	3749 BOOMA Apt #3 RD, KS 66610	KUMC
Wanda P. Summers	98110 W. 95th Ct. O.P. KS 66212	KUMC
Nickie Stein, R.N., M.Ed.	1607 College - Topeka - 66604	KS State Nurses' Assn
Esther L. Ideker	4211 13th St Whiting, KS 66552	Comm. / Washburn Univ
Sharon Jones	607 Canyon Shawnee Park 66205	KNAS 45 Prov. Board
Bonnie Schneider	816 Washburn Apt 27	Washburn University
Michele Oathout	1400 NW 46th Silverlake	Washburn University
Leah Skyles	2911 Central Park B-22 Topeka, KS	Washburn University
Carol Lawson	915 Lindenwood Topeka	Washburn University
John Ross	5601 W. 27th	" "
Margaret Herber	Bx 124 B Hamlet, KS	Washburn Univ



KANSAS DEPARTMENT OF CORRECTIONS
INTERDEPARTMENTAL MEMORANDUM

RE: DEPARTMENT OF CORRECTIONS LEGISLATIVE PROPOSAL
TOPIC: COMPUTATION OF SENTENCE FOR A PAROLE VIOLATOR
ISSUE: SHOULD K.S.A. 75-5217 BE AMENDED TO CLARIFY THE COMPUTATION OF SENTENCE FOR A PAROLE VIOLATOR?

BACKGROUND:

K.S.A. 75-5217(c) currently provides that if a parole violator cannot be found or is not available to be served with a parole violation warrant, he or she shall be deemed a fugitive from justice. The statute further provides that the time from the violation of the conditions of the parole to the date of the fugitive's arrest shall not be counted as time served under the sentence.

A problem with this language is the reference to the term "fugitive". In a recent case in Leavenworth County District Court the court determined that once the department became aware of a parole violator's location, that individual could no longer be termed a fugitive, despite the fact that the individual might not be available for return to the state of Kansas. The impact of this ruling was that the inmate began receiving credit on his or her sentence from the date Kansas became aware of his or her location, despite the fact that the individual might be in custody in another state on local charges or otherwise not available for immediate return to the state of Kansas.

RECOMMENDATION:

It is recommended that K.S.A. 75-5217(c) be amended to provide that if a released inmate cannot be located in order to be served with a parole violation warrant, the time from the issuance of the warrant until the time of the released inmate's arrest shall not be counted as time served under this sentence. In the event the released inmate is arrested in another state, the time from the issuance of the warrant until the inmate is available to be returned to the state of Kansas would not count as time served on this sentence. This would encompass the concept of delinquent time lost on parole as set forth in K.A.R. 44-6-136. This concept and the language proposed for subsection (c) of K.S.A. 75-5217 applies only in the situation when a parolee absconds from supervision.

*Attach. I
Senate Judiciary
2-19-87*

PROPOSED AMENDMENT
DEPARTMENT OF CORRECTIONS

SENATE BILL 202

Line 0085. For the purpose of determining the sentence begins date and the parole eligibility and conditional release dates, The the inmate shall be given credit on the aggregate sentence for time spent incarcerated on the previous sentences, but not exceeding an amount equal to the previous minimum sentence less the maximum amount of good time credit that could have been earned on the minimum sentence,--for-the purpose-of-determining-the-sentence-begins-date-and the parole eligibility, conditional release and maximum dates. For the purpose of computing the maximum date, the inmate shall be given credit for all time spent incarcerated on the previous sentence. This method for computation of the maximum sentence shall be utilized for all sentences computed pursuant to this subsection after July 1, 1985.

*Attach. I
Senate Judiciary
2-19-87*

February 19, 1987

PROPOSED AMENDMENTS
DEPARTMENT OF CORRECTIONS

Re: SENATE BILL NO. 203

Line 48: Strike "three"; insert "five".

Line 66: Insert as subsection (c),
Reletter current (c) and (d) as (d) and (e).

"In the event the released inmate reaches conditional release date as provided by K.S.A. 22-3718 and amendments thereto after a finding of probable cause, pursuant to procedures established by the secretary of corrections of a violation of the released inmate's conditions of release, but prior to a hearing before the Kansas parole board, the secretary of corrections shall be authorized to detain the inmate until the hearing by the Kansas parole board. The secretary shall then enforce the order issued by the Kansas parole board."

Line 76: Insert "issuance of the warrant for" prior to "violation".

Line 78: Strike the comma after "state" and insert: "for reasons other than the parole violation warrant issued by the secretary of corrections,".

Line 80: Strike "violation of conditions" insert "issuance of the warrant".

*Attach. II
Senate Judiciary
2-19-87*