

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by Representative Robert H. Miller at
Chairperson

1:30 a.m./p.m. on March 22, 1988 in room 526S of the Capitol.

All members were present except:

Representative Peterson

Committee staff present:

Mary Torrence, Revisor's Office
Mary Galligan, Research Department
Lynda Hutfles, Secretary

Conferees appearing before the committee:

Representative Clarence Love
Representative Elizabeth Baker
Clark Owen, Sedgwick County District Attorney
Phillip Cupp, Wichita
Captain Rummey, Wichita Police Department

The meeting was called to order by Chairman Miller.

Representative Barr made a motion, seconded by Representative Long, to approve the minutes of the March 21 meeting. The motion carried.

HB3097 - Small Business Procurement Act

Representative Love explained the bill which extends the expiration date of the Small Business Procurement Act from July 1, 1988 until July 1, 1996.

Hearings were concluded on HB3097.

HB3057 - Concerning the crime of vehicular homicide

Representative Elizabeth Baker expressed support of the bill which was introduced because of an incident that occurred in Sedgwick County.

Clark Owen, Sedgwick County District Attorney, gave testimony in support of HB3057 which would change the element of the crime of vehicular homicide to an ordinary negligence standard from its present language which is confusing and difficult to enforce. He referred to current statutes and supreme court decisions which define the degree of negligence required for a vehicular homicide conviction. See attachment A.

Phillip Cupp expressed support of the bill and told the committee of the accident in May of 1987 which killed his wife and soon to be adopted son and injured his daughter. They all had seat belts on. There were several other people injured in the accident. The person who caused the accident ran a red light. This person can be sued, but he will only be issued a ticket for running a red light. Mr. Cupp said he felt this was unfair.

Captain Rummey, Traffic Division of the Wichita Police Department, gave testimony in support of the bill and any legislation which clarifies the definition of reasonable risk and material deviation. He said they have had six cases of vehicular homicide since August of 1986. It doesn't seem fair or right that a person who runs a red light and kills someone can get the same penalty as someone who runs a red light and does not cause a death. Captain gave a synopsis of some of the cases that have been filed in Sedgwick County.

Hearings were concluded on HB3057.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS,
room 526S, Statehouse, at 1:30 a.m./p.m. on March 22, 19

HB3087 - Kansas Code of Military Justice

Mary Torrence explained that most of the amendments were technical. The two main changes were on page 42, Sec. 56 - delete death penalty and on page 34 on line 79 to change "confinement for one year or more" to "confinement for three or more months".

Representative Walker made a motion, seconded by Representative Barr, to amend HB3087 as per Mary Torrence's explanation. The motion carried.

Representative Walker made a motion, seconded by Representative Jenkins, to report HB3087 favorable as amended. The motion carried.

HB3079 - concerning criminal procedure; relating to parole

Representative Jenkins made a motion, seconded by Representative Sifers, to amend HB3079 by adopting the attached balloon. The motion carried. See attachment B.

Representative Roy made a motion, seconded by Representative Rolfs, to amend HB2714 into HB3079 which would include a unanimous vote of the parole board for release of first time A & B releases. The motion carried.

Representative Sebelius told the committee she felt that HB3079 makes a number of changes to give the Secretary of Corrections flexibility and that these two issues need to be kept separated.

Representative Aylward made a motion, seconded by Representative Roy, to report HB3079 favorable as amended. The motion carried.

HB3057 - Changing what constitutes vehicular homicide

Representative Sebelius made a motion, seconded by Representative Aylward, to report HB3057 favorable for passage. The motion carried.

The Chairman announced there would not be a meeting on Thursday, March 24.

The meeting was adjourned.

**SEDGWICK COUNTY DISTRICT ATTORNEY
18th Judicial District**

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Annex — Second Floor
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Wichita, Kansas 67203

CLARK V. OWENS
District Attorney

(316) 268-7281

HENRY H. BLASE
Chief Deputy

T E S T I M O N Y

TO: House Committee on Federal and State Affairs
FROM: Clark V. Owens, District Attorney of Sedgwick County, Kansas
RE: House Bill 3057
DATE: March 22, 1988

I fully support H.B. 3057 which would change the element of the crime of vehicular homicide to an ordinary negligence standard from its present language which is confusing and difficult to enforce. K.S.A. 21-3405 currently requires proof that a person created an unreasonable risk of injury through the operation of a motor vehicle which constituted a material deviation from the standard of care. This definition is difficult for judges and lawyers to understand and even more confusing to juries.

HISTORY OF VEHICULAR HOMICIDE STATUTE

Prior to the enactment of K.S.A. 21-3405 in 1969 when the entire criminal code was revised, a similar statute found in 8-529 required only a standard of ordinary negligence. Any person who killed another human being through the negligent operation of a motor vehicle was guilty of a misdemeanor called negligent homicide. This law was enacted in 1937 and remained unchanged until 1969.

In 1969 the criminal code was revised and in the process the vehicular homicide statute was created and the negligent homicide statute repealed. In 1972 the Legislature amended the statute by substituting the word "material" in place of "substantial" so that it would read ". . . a material deviation from the standard of care . . ."

KANSAS SUPREME COURT DECISIONS

In the Kansas Supreme Court decision of State v. Gordon, 219 Kan. 643 (1976) the State attempted to argue that the language contained in the vehicular homicide statute required only proof of simple negligence for a conviction. The Supreme Court disagreed, stating that the Legislature apparently intended a higher degree of negligence on account of the language chosen. The Court also concluded that the 1972 amendment was no change in the standard.

In State v. Makin, 223 Kan. 743 (1978) the Kansas Supreme Court made an attempt to further define the degree of negligence required by the vehicular homicide statute. The Court ruled that the statute required the proof of negligence greater than ordinary negligence, but less than wanton or gross negligence. However, they could not further define the degree of negligence to indicate at what point the standard lies between ordinary and gross negligence. This concept remains unclear to even the best legal minds.

OTHER STATE STATUTES

In examining the approach other states have taken in addressing this issue it is found that some require only a showing of ordinary negligence while others require gross or wanton negligence. Usually the states requiring the higher standard establish the conduct as a felony offense. Similarly, in Kansas the Aggravated Vehicular Homicide statute found in 1987 Supp. K.S.A. 21-3405a is a felony and requires the proof of reckless driving or other serious driving violations.

There are a number of states that require only an ordinary negligence standard to establish a vehicular or negligent homicide prosecution. A collection of these cases are found in an annotation at 20 ALR3d 473.

PUBLIC POLICY CONSIDERATIONS

Presently we are confronted every year with traffic fatalities that have to go unprosecuted even though we can establish negligence on the part of the other driver. Instead of being prosecuted for a misdemeanor crime of vehicular homicide, the offender can only be charged with a traffic infraction such as speeding or running a red

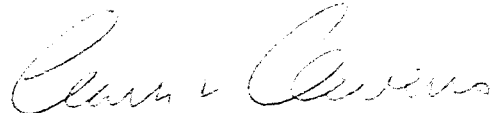
light. His only penalty may be to pay a small fine and the Court or Motor Vehicle Department has no ability to take action against the offender's driver's license. Any civil action filed against the offender will generally be handled by his insurance carrier and a settlement or judgment will not come out of his pocket.

A misdemeanor prosecution for vehicular homicide based on an ordinary negligence standard will probably not result in very many people being sentenced to a county jail as opposed to placement on probation. However, a jail sentence would at least be possible to impose for appropriate cases. An even greater policy consideration is to make the offender's privilege to operate a motor vehicle be placed under review of the sentencing court or Motor Vehicle Department for a conviction of Vehicular Homicide.

The public policy concerns of the old negligent homicide statute were well summarized in the Kansas Supreme Court decision of State v. Ashton, 175 Kan. 164 (1953) and restated in State v. Miles, 203 Kan. 707 (1969).

"It undertook to enact a statute sufficiently broad to encompass negligent acts and omissions of all kinds and character from which death ensued when committed in disregard of the safety of others. It is a police measure designed to protect the public from the constantly mounting death toll resulting from vehicular traffic. In order to prevent or decrease these direful results the law, of necessity, had to be broad and general in its reach." p. 170-171

That same public policy consideration holds true today.



CLARK V. OWENS
District Attorney

HOUSE BILL No. 3079

By Committee on Federal and State Affairs

3-2

Attach B

0016 AN ACT concerning criminal procedure; relating to parole; _____ K.S.A. 21-4620 and
 0017 amending ~~K.S.A. 1987 Supp. 22-3717~~ and repealing the exist-
 0018 ing ~~section~~; also repealing K.S.A. 1987 Supp. 22-3724. _____ sections

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. K.S.A. 1987 Supp. 22-3717 is hereby amended to
 0021 read as follows: 22-3717. (a) Except as *otherwise* provided ~~in~~
 0022 ~~subsection (b)~~ *by this section*, an inmate, including an inmate
 0023 sentenced pursuant to K.S.A. 21-4618 and amendments thereto,
 0024 shall be eligible for parole after serving the entire minimum
 0025 sentence imposed by the court, less good time credits.

0026 (b) An inmate sentenced for a class A felony, including an
 0027 inmate sentenced pursuant to K.S.A. 21-4618 and amendments
 0028 thereto, shall be eligible for parole after serving 15 years of
 0029 confinement, without deduction of any good time credits.

0030 (c) Except as provided in subsection (d), if an inmate is
 0031 sentenced to imprisonment for more than one crime and the
 0032 sentences run consecutively, the inmate shall be eligible for
 parole after serving the total of:

0034 (1) The aggregate minimum sentences, as determined pur-
 0035 suant to K.S.A. 21-4608 and amendments thereto, less good time
 0036 credits for those crimes which are not class A felonies; and

0037 (2) an additional 15 years, without deduction of good time
 0038 credits, for each crime which is a class A felony.

0039 (d) If an inmate is sentenced to imprisonment for a crime
 0040 committed while on parole or conditional release, the inmate
 0041 shall be eligible for parole as provided by subsection (c), except
 0042 that the Kansas parole board may postpone the inmate's parole
 0043 eligibility date by assessing a penalty not exceeding the period
 0044 of time which could have been assessed if the inmate's parole or

0045 conditional release had been violated for reasons other than
 0046 conviction of a crime.

0047 (e) Subject to the provisions of this section, the Kansas parole
 0048 board shall have power to release on parole those persons con-
 0049 fined in institutions who are eligible for parole when; ~~in the~~
 0050 ~~opinion of the board; the board:~~ (1) *Believes that the inmate*
 0051 *should be released for hospitalization, for deportation or to*
 0052 *answer the warrant or other process of a court and is of the*
 0053 *opinion that there is reasonable probability that such persons*
 0054 *the inmate can be released without detriment to the community*
 0055 *or to themselves the inmate;* (2) *determines that the inmate has*
 0056 *satisfactorily completed the programs required by the agree-*
 0057 *ment entered with the inmate under subsection (g), or any*
 0058 *revision of such agreement; or (3) if no agreement has been*
 0059 *entered with the inmate under subsection (g), believes that the*
 0060 *inmate is able and willing to fulfill the obligations of a law*
 0061 *abiding citizen and is of the opinion that there is reasonable*
 0062 *probability that the inmate can be released without detriment*
 0063 *to the community or to the inmate. Parole shall not be granted*
 0064 *as an award of clemency and shall not be considered a reduction*
 0065 *of sentence or a pardon.*

0066 (f) The Kansas parole board shall hold a parole hearing for
 0067 ~~any inmate who achieves eligibility during the month prior to~~
 0068 ~~the month an inmate will be eligible for parole under subsec-~~
 0069 ~~tions (a), (b) and (c). (g) If granted parole, the inmate may be~~
 0070 ~~released on parole on the date specified by the board, but not~~
 0071 ~~earlier than the date the inmate is eligible for parole under~~
 0072 ~~subsections (a), (b) and (c). Prior to each parole hearing and, if~~
 0073 ~~parole is not granted, at such intervals thereafter as it determines~~
 0074 ~~appropriate, the Kansas parole board shall consider: (1) The~~
 0075 ~~inmate's progress toward satisfactory completion of the pro-~~
 0076 ~~grams required by the agreement entered with the inmate under~~
 0077 ~~subsection (g), or any revision of such agreement; or (2) if no~~
 0078 ~~agreement has been entered with the inmate under subsection~~
 0079 ~~(g), all pertinent information regarding each such inmate, in-~~
 0080 ~~cluding, but not limited to, the circumstances of the offense of~~
 0081 ~~the inmate; the presentence report; the previous social history~~

At

any

and (2)

0082 and criminal record of the inmate; the conduct, employment, and
 0083 attitude of the inmate in prison; and the reports of such physical
 0084 and mental examinations as have been made.

0085 (g) ~~Within a reasonable time after a defendant is committed~~
 0086 ~~to the custody of the secretary of corrections, which time shall~~
 0087 ~~not exceed 60 days after the court's jurisdiction to modify the~~
 0088 ~~sentence has passed 60 days after a program is recommended~~
 0089 ~~for an inmate under K.S.A. 75-5229 or 75-5262, and amendments~~
 0090 ~~thereto~~, the Kansas parole board or a member of the board, shall
 0091 hold an initial ~~informational~~ hearing with the inmate except in
 0092 cases involving an inmate serving a Kansas sentence in another
 0093 jurisdiction. *At such hearing, the board or board member shall*
 0094 *enter into a written agreement with the inmate that the inmate*
 0095 *will be released on parole when the inmate is eligible pursuant*
 0096 *to this section and has satisfactorily completed those educa-*
 0097 *tional, vocational, mental health or other programs determined*
 0098 *by the secretary of corrections as necessary for the inmate to be*
 0099 *prepared for release. The agreement shall be conditioned on the*
 0100 *inmate's satisfactory conduct, employment and attitude while*
 0101 *incarcerated. If the secretary of corrections determines that the*
 0102 *inmate's conduct, employment, attitude or needs require modi-*
 0103 *fications or additions to those programs which are set forth in*
 0104 *the agreement, the secretary shall modify or add to the require-*
 0105 *ments and notify the board of such modifications or additions*
 0106 *and the board shall revise the agreement with the inmate to*
 0107 *incorporate any such modifications or additions. A copy of the*
 0108 *agreement and any revision thereof shall be entered into the*
 0109 *inmate's record.*

0110 (h) Before ordering the parole of any inmate, the Kansas
 0111 parole board shall have the inmate appear before it and shall
 0112 interview the inmate unless impractical because of the inmate's
 0113 physical or mental condition or absence from the institution. A
 0114 parole shall be ordered only for the best interest of the inmate
 0115 and not as an award of clemency. Parole shall not be considered a
 0116 reduction of sentence or a pardon. An inmate shall be placed on
 0117 parole only when the Kansas parole board believes that the
 0118 inmate is able and willing to fulfill the obligations of a law-

a reasonable time after a defendant is committed to
 the custody of the secretary of corrections, which
 time shall not exceed 30 days after the court's
 jurisdiction to modify the inmate's sentence has
 passed

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 parole board formally considers placing an inmate on parole and does not grant the parole, the board shall notify the inmate in writing of the: (1) The specific programs which the inmate must satisfactorily complete, as required by the agreement entered under subsection (g), or any revision of such agreement, before parole will be granted; or (2) if no agreement has been entered with the inmate under subsection (g), the specific reasons for not granting the parole. If parole is denied, the board shall hold another parole hearing for the inmate not later than one year after the denial.

(i) 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.

(i) Parolees shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(j) The Kansas parole board 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 conduct of parole hearings, orders of restitution and other conditions to be imposed upon parolees. Whenever an order for parole is issued it shall recite the conditions thereof.

(k) Whenever the Kansas parole board orders the parole of an inmate, the board, unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole that the parolee pay any transportation expenses resulting from returning the parolee to this state to answer criminal charges or a warrant for a violation of a condition

and no agreement has been entered into with the inmate under subsection (g), the board shall notify the inmate in writing of the specific reasons for not granting parole. If an agreement has been entered pursuant to subsection (g) and the inmate has not satisfactorily completed the programs specified in the agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. The agreement provided by subsection (g) shall not be regarded as a contract for parole, nor as conferring an absolute right to release on parole. All pertinent information regarding the inmate shall be considered by the board. If the board determines that such information warrants the inmate's not being released on parole despite having completed the programs specified in the agreement

0156 of probation, assignment to a community correctional services
0157 program, parole or conditional release.

0158 (l) If the court which sentenced an inmate specified at the
0159 time of sentencing the amount and the recipient of any restitu-
0160 tion ordered as a condition of parole, the Kansas parole board
0161 shall order as a condition of parole that the inmate pay restitution
0162 in the amount and manner provided in the journal entry unless
0163 the board finds compelling circumstances which would render a
0164 plan of restitution unworkable. If the parolee was sentenced
0165 before July 1, 1986, and the court did not specify at the time of
0166 sentencing the amount and the recipient of any restitution or-
0167 dered as a condition of parole, the parole board shall order as a
0168 condition of parole that the parolee make restitution for the
0169 damage or loss caused by the parolee's crime in an amount and
0170 manner determined by the board unless the board finds com-
0171 pelling circumstances which would render a plan of restitution
0172 unworkable. If the parolee was sentenced on or after July 1,
0173 1986, and the court did not specify at the time of sentencing the
0174 amount and the recipient of any restitution ordered as a condi-
0175 tion of parole, the parole board shall not order restitution as a
0176 condition of parole unless the board finds compelling circum-
0177 stances which justify such an order.

0178 (m) Whenever the Kansas parole board grants the parole of an
0179 inmate, the board, within 10 days of the date of the decision to
0180 grant parole, shall give written notice of the decision to the
0181 county or district attorney of the county where the inmate was
0182 sentenced.

0183 (n) An inmate shall be eligible for parole on the date pro-
0184 vided by statute at the time the inmate committed the crime for
0185 which imprisoned unless subsequent amendment of the statute
0186 provides an earlier parole eligibility date.

0187 (o) An inmate who is ~~eligible to earn~~ *allocated* regular good
0188 time credits as provided in ~~K.S.A. 1987 Supp. 22-3724 section 2~~
0189 may receive meritorious good time credits in increments of not
0190 more than 90 days per meritorious act. These credits may be
0191 awarded by the secretary of corrections when an inmate has
0192 acted in a heroic or outstanding manner in coming to the assist-

0193 ance of another person in a life threatening situation, preventing
 0194 injury or death to a person, preventing the destruction of prop-
 0195 erty or taking actions which result in a financial savings to the
 0196 state.

0197 New Sec. 2. (a) For the purpose of determining an inmate's
 0198 eligibility for parole or conditional release, good time credits
 0199 shall be allocated as follows:

regardless of when the inmate was sentenced or
 committed the crime for which sentenced,

0200 GOOD TIME TABLE
 0201 (Assumed 360-Day Year, 30-Day Months)

0207 0212 0217	No. Months Time Served	Monthly Good Time Allocation	Maximum Cumulative Allocations	Length Of Sentence	Time To Be Served If All Good Time Awarded
0222	1st Mo.	6 Days			
0224	2nd Mo.	6 Days			
0226	3rd Mo.	6 Days			
0230	4th Mo.	6 Days			
0232	5th Mo.	6 Days			
0234	6th Mo.	6 Days			
0236	7th Mo.	6 Days			
0238	8th Mo.	6 Days			
0240	9th Mo.	6 Days			
0245	10th Mo.	6 Days	2 Months	1 Year	10 Months
0247	11th Mo.	15 Days			
0249	12th Mo.	15 Days			
0251	13th Mo.	15 Days			
0253	14th Mo.	15 Days			
0255	15th Mo.	15 Days			
0257	16th Mo.	15 Days			
0259	17th Mo.	15 Days			
0264	18th Mo.	15 Days	6 Months	2 Years	1 Year 6 Months
0266	19th Mo.	30 Days			
0266	All thereafter	30 days			

0268 (b) An inmate sentenced to imprisonment for a crime com-
 0269 mitted on or after July 1, 1982, and before July 1, 1988, shall be
 allocated good time credits in accordance with this section or
 0271 K.S.A. 1987 Supp. 22-3724 as it existed before its repeal by this
 0272 act, whichever results in an earlier parole eligibility date.

Insert table attached

0273 (c) Good time credits shall be awarded on an earned basis
 0274 pursuant to rules and regulations adopted by the secretary of
 0275 corrections.

(b)

0276 New Sec. 3. The secretary of corrections may place on a
 0277 six-month supervised furlough any inmate who is classified at a
 0278 custody level not higher than minimum and who will be eligible
 0279 for parole under K.S.A. 22-3717 and amendments thereto by the
 0280 end of the six-month period. If, at the end of the six-month
 0281 period, the secretary determines that the inmate has successfully

SENTENCE
Minimum (or)
Maximum

GOOD TIME EARNED

Years Months Days

MUST SERVE

Years Months Days

1	0	3	0	0	9	0
2	0	6	23	1	5	7
3	1	0	0	2	0	0
4	1	6	0	2	6	0
5	2	0	0	3	0	0
6	2	6	0	3	6	0
7	3	0	0	4	0	0
8	3	6	0	4	6	0
9	4	0	0	5	0	0
10	4	6	0	5	6	0
11	5	0	0	6	0	0
12	5	6	0	6	6	0
13	6	0	0	7	0	0
14	6	6	0	7	6	0
15	7	0	0	8	0	0
16	7	6	0	8	6	0
17	8	0	0	9	0	0
18	8	6	0	9	6	0
19	9	0	0	10	0	0
20	9	6	0	10	6	0
21	10	0	0	11	0	0
22	10	6	0	11	6	0
23	11	0	0	12	0	0
24	11	6	0	12	6	0
25	12	0	0	13	0	0
26	12	6	0	13	6	0
27	13	0	0	14	0	0
28	13	6	0	14	6	0
29	14	0	0	15	0	0
30	14	6	0	15	6	0
31	15	0	0	16	0	0
32	15	6	0	16	6	0
33	16	0	0	17	0	0
34	16	6	0	17	6	0
35	17	0	0	18	0	0
36	17	6	0	18	6	0
37	18	0	0	19	0	0
38	18	6	0	19	6	0
39	19	0	0	20	0	0
40	19	6	0	20	6	0
41	20	0	0	21	0	0
42	20	6	0	21	6	0
43	21	0	0	22	0	0
44	21	6	0	22	6	0
45	22	0	0	23	0	0
46	22	6	0	23	6	0
47	23	0	0	24	0	0
48	23	6	0	24	6	0
49	24	0	0	25	0	0
50	24	6	0	25	6	0
51	25	0	0	26	0	0
52	25	6	0	26	6	0
53	26	0	0	27	0	0
54	26	6	0	27	6	0
55	27	0	0	28	0	0

56	27	6	0	28	6	0
57	28	0	0	29	0	0
58	28	6	0	29	6	0
59	29	0	0	30	0	0
60	29	6	0	30	6	0
61	30	0	0	31	0	0
62	30	6	0	31	6	0
63	31	0	0	32	0	0
64	31	6	0	32	6	0
65	32	0	0	33	0	0
66	32	6	0	33	6	0
67	33	0	0	34	0	0
68	33	6	0	34	6	0
69	34	0	0	35	0	0
70	34	6	0	35	6	0
71	35	0	0	36	0	0
72	35	6	0	36	6	0
73	36	0	0	37	0	0
74	36	6	0	37	6	0
75	37	0	0	38	0	0
76	37	6	0	38	6	0
77	38	0	0	39	0	0
78	38	6	0	39	6	0
79	39	0	0	40	0	0
80	39	6	0	40	6	0
81	40	0	0	41	0	0
82	40	6	0	41	6	0
83	41	0	0	42	0	0
84	41	6	0	42	6	0
85	42	0	0	43	0	0
86	42	6	0	43	6	0
87	43	0	0	44	0	0
88	43	6	0	44	6	0
89	44	0	0	45	0	0
90	44	6	0	45	6	0
91	45	0	0	46	0	0
92	45	6	0	46	6	0
93	46	0	0	47	0	0
94	46	6	0	47	6	0
95	47	0	0	48	0	0
96	47	6	0	48	6	0
97	48	0	0	49	0	0
98	48	6	0	49	6	0
99	49	0	0	50	0	0
100	49	6	0	50	6	0

0282 completed the furlough, the secretary shall certify that fact to the
0283 Kansas parole board, which shall promptly order the inmate's
0284 release on parole, without hearing, under the level of supervi-
0285 sion specified by the secretary and subject to such conditions as
0286 imposed by the board. _____

Insert sections 4 and 5, attached

0287 Sec. 4. K.S.A. 1987 Supp. 22-3717 and 22-3724 are hereby
0288 repealed.

K.S.A. 21-4620 and

0289 Sec. 5. This act shall take effect and be in force from and
0290 after its publication in the statute book.

New Sec. 4. (a) In any criminal action in which probation or assignment to community corrections is revoked and the defendant is sentenced to confinement, for the purpose of computing the defendant's sentence and parole eligibility and conditional release dates, the defendant's sentence is to be computed from a date, hereafter to be specifically designated in the sentencing order of the journal entry of judgment or the judgment form delivered with the defendant to the correctional institution. Such date shall be established to reflect and shall be computed as an allowance for the time which the defendant has spent on probation or assignment to community corrections. The commencing date of such sentence shall be used as the date of sentence and all good time allowances as are authorized by law are to be allowed on such sentence from such date as though the defendant were actually incarcerated in a correctional institution. Such credit is not to be considered to reduce the minimum or maximum terms of confinement authorized by law for the offense of which the defendant has been convicted.

Sec. 5. K.S.A. 21-4620 is hereby amended to read as follows: 21-4620. (a) If the defendant is to be sentenced to the custody of the secretary of corrections, the court may prepare a judgment form which shall be signed by the court and filed with the clerk. If prepared, the judgment form shall reflect the conviction, the sentence and the commitment, and shall contain the following:

(1) The pronouncement of guilt including:

- (A) The title of the crime;
- (B) the statute violated;
- (C) the date the offense occurred.

(2) The sentence imposed including:

(A) The terms as required by ~~K.S.A. 21-4603(2)~~ subsection (2) of K.S.A. 21-4603 and amendments thereto;

(B) if applicable, a description of any increase in sentence because of previous felony conviction pursuant to K.S.A. 21-4504 and amendments thereto;

(C) if applicable, a statement that this 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;

(D) if applicable, a statement that this defendant, age ~~eighteen-(18)~~ 18 or over, has been mandatorily sentenced pursuant to K.S.A. 21-4618 and amendments thereto for use of a firearm in a crime under article 34 of chapter 21, or the crime of rape or aggravated sodomy;

(E) a statement of the effective date of the sentence indicating whether it is the date of imposition or some date earlier to give credit for time confined pending disposition of the case pursuant to K.S.A. 21-4614 and amendments thereto or credit for time on probation or assignment to community

corrections pursuant to section 4.

(3) The order of commitment to the custody of the secretary, if not issued as a separate order.

(b) The court may attach to or include in the judgment form any of the following:

(1) A statement of reasons for imposing the sentence as ordered other than those reasons required above to be stated;

(2) a description of aggravating or mitigating circumstances the court took into consideration when ordering the commitment;

(3) recommendations on a program of rehabilitation for the offender, based on presentence investigation reports and any other information available. Such recommendations may include desirable treatment for corrections of physical deformities or disfigurement that may, if possible, be corrected by medical or surgical procedures or by prosthesis;

(4) a recommendation for further evaluation at the Kansas state reception and diagnostic center, even though defendant was committed for presentence investigation;

(5) the copy of the evidence from trial or part thereof transmitted pursuant to K.S.A. 75-5219 and amendments thereto.

(c) The court shall forward 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, to the officer having the offender in custody for delivery with the offender to the correctional institution.

