

Approved April 8, 1988

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 April 5, 1988, 19   in room 514-S of the Capitol.

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

Committee staff present:

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

Conferees appearing before the committee:

Representative Wanda Fuller  
Representative Bob Wunsch  
Roger Endell, Secretary of Corrections  
Steven Robinson, Ombudsman  
Elwaine Pomeroy, Kansas Parole Board  
Jean Wasson, Outside Connection  
Charles Simmons, Department of Corrections

House Bill 3079 - Parole based on completion of programs required by Kansas Parole Board.

Representative Wanda Fuller explained this bill was brought to the revisor by the Corrections Ombudsman Board. She reported Kansas has a greater growth in prison population than any other state in the United States. The bill is cost effective, reduces overcrowding, provides guidance to the parole board and provides for a more cohesive relationship between the parole board and the Department of corrections. She said the chairman of the parole board has been working with us to help address the overcrowding problem. The bill has three major measures that would be a change from current law. The major change is allowing more good time credits. A committee member inquired do you have strong feelings concerning the unanimous vote of the parole board? Representative Fuller replied, I have mixed feelings about that, however, that is the current policy of the board.

Representative Wunsch statedd he would like to echo the remarks of Representative Fuller. He called the committee's attention to the amendment at the end of the bill concerning the electronic survey device, which was in old House Bill 2898. A copy of his handout is attached (See Attachment I). The chairman explained it was felt it would make more sense to have the amendment of the electronic device in this bill.

Roger Endell, Secretary of Corrections, testified the bill gives additional latitude to accomplish a number of things. When an inmate signs the letter of agreement, and when he is ready, we will take him to the parole board. If the parole is denied the board is required to hold another hearing. Good time credit accrued rates will move out 200 inmates in the next two years. He said the select committee on corrections has been meeting regularly. The committee recommended 50 court services officers,

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

room 514-S, Statehouse, at 10:00 a.m. ~~p.m.~~ on April 5, 1988.

House Bill 3079 continued

32 parole officers and about four million dollars in new programs. Secretary Endell stated this bill is the key to making a great deal of things happen. A committee member inquired about the letter of agreement? The secretary replied this is not a guarantee, this is not a contract, it addresses the right to parole issues. A staff member inquired what if the prisoner refuses to sign this agreement? The secretary replied, word will get around that it is advantageous to sign. For those who refuse to agree, are the people who will do a lot of time. We can't ask inmates to get in programs we don't have. Approximately four million dollars in additional money will allow them to reach a significant group of inmates. Their effort is to get these programs delivered up front and get needs taken care of early in their sentence.

Steven Robinson, Ombudsman, testified the bill changes the authority as to who would assign the level of supervision the inmates would have on parolees. This bill would change that authority from the parole board to secretary of corrections. It allows more flexibility to parole officers. It establishes written agreement between Secretary of Corrections and inmate for required programs. It establishes authority for SOC to place inmates on extended supervised furloughs six months before parole eligibility. It allows the courts and the SOC to use house arrest with electronic monitoring as an alternative to incarceration. Mr. Robinson recommended amending Sections 1 and 2 of Senate Bill 366 into House Bill 3079. He also recommended amending out Section 6 of the bill. He stated we do support a higher threshold for felony theft. A copy of his testimony is attached (See Attachment II)

Elwaine Pomeroy, Kansas Parole Board Chairman, testified the bill will provide better communications. He said sometimes their suggested programs have not been parole requirements. Another lack of communication is they have seen a number of times inmates have told them that they have not been informed as to what those recommendations are. Chairman Pomeroy requested further amendments to can provide greater improvement in the bill. These suggestions are listed in the attached handout (See Attachment III). He stated the board will have to see twice as many hearings with the change in the good time credit. He said he agrees with suggestions to amend Sections 1 and 2 of Senate Bill 366 into this bill.

Jean Wasson, Outside Connection, testified her organization is very much in accordance with the director of corrections. She testified we are standing behind all of his recommendations one hundred percent. Concerning the parole hearing each year, that would affect the majority of the minimum security who are at the bottom of the scale anyway. That would help get those people out. We would like that provision to stay in.

Charles Simmons, Department of Corrections, explained the proposed amendments of the secretary of corrections (See Attachment IV). He also proposed the publication date be Publication in the Kansas Register. He stated he concurs with Chairman Pomeroy concerning the formula for good time table. He also concurs in the recommendation Senate Bill 366 be amended into the bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,  
room 514-S, Statehouse, at 10:00 a.m. ~~pm~~ on April 5, 19 88.

During committee discussion, a committee member suggested instead of holding hearings every year, would it be practical way to set a summary docket. Chairman Pomeroy replied instead of parole hearing, have a file review. Chairman Pomeroy stated he was concerned with changing the effective date.

The meeting adjourned.

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

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 4-5-88

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Alan Meyers	7225 Ridge KCK	Stony Point Christian
Joshua Reason	230565 <sup>st</sup> KCK	
Matt Trivedi	Topeka	AP
George Jones	Topeka	KPB
Dandy (Smith)	Topeka	KPB
Shelly Meyers	K.C. KS 7225 Ridge	
Natasha Meyers	7225 Ridge, KCK	
Steven A. Robinson	Topeka	Ambudsman for Corrections
Michal A. Ross	"	" "
BARRY REINERT	"	KPOA
Alan E. Sims	Overlord Park	City of Overlord Park
Bennie Townsend	Lanaw, ks	Intern
Frank Yerden	Topeka	ks. Parks Bd.
Robert Wray	214 S Chestnut	Olathi K.
Japhin Seeger	Topeka	San. Museum
Janet Wray	Olatha, ks	Outlets Commission
Bob Warrick		Leg
W. Miller		Leg
Quaine Starnes	Topeka	Parole Board
John Conrad	"	Governor
Jim McBride	Topeka	obscure
Jack Glaves	Wichita	"

ROBERT S. WUNSCH

REPRESENTATIVE, ONE HUNDRED AND FIRST DISTRICT  
KINGMAN AND RENO COUNTIES  
BOX 473  
KINGMAN, KANSAS 67068-0473  
(316) 532-3113



COMMITTEE ASSIGNMENTS

CHAIRMAN: JUDICIARY  
MEMBER: TAXATION  
CORRECTIONS OMBUDSMAN BOARD  
NATIONAL CONFERENCE OF STATE  
LEGISLATORS COMMITTEE ON LAW  
AND JUSTICE  
OFFICE OF THE ATTORNEY GENERAL  
OFFICE OF THE COMPTROLLER  
OFFICE OF THE SECRETARY OF STATE

# Breaking Punishment Out of Prison

**SUMMARY: In the face of overcrowded prisons and the rising cost of providing new space, alternative sentences are becoming increasingly attractive. Proponents claim that the sentences, which include restitution, community service and electronic monitoring, are not only less expensive than incarceration but more effective, too.**

**A** slumlord is condemned to live for a month in one of his buildings. A teenager who mixed drinking and driving, leading to the deaths of 10 people, is sentenced to work with a shock-trauma unit. A child molester is ordered to hang signs that say "Dangerous Sex Offender" on his house and car. The idea that the punishment should fit the crime is as old as crime itself. But today, with prison costs skyrocketing, there is a growing interest in finding alternatives to incarceration.

"The whole system has been hit with an avalanche," says Mark Cunniff, executive director of the National Association of Criminal Justice Planners, a nonprofit organization in Washington, D.C. "People are scrambling around to see what else we can do."

The options being touted include house arrest, electronic monitoring, restitution and community service. These ideas are not necessarily new, but what is new is a willingness to put them into effect in a broad range of felony cases.

"There's a group of offenders for whom prison's not the only choice," says Mark Maurer of the Sentencing Project, a research and consulting organization that has helped set up two dozen alternative sentencing programs. "You can do something else with this group of people. You can set up a community sentencing program that's punitive, rehabilitative, that puts controls over the persons and speaks more directly to the victims and is also much less costly than sending a person to prison." That cost, according to a recent Rand Corp. report, averages \$14,000 per year.

"If more time and effort could be put into the sentencing, a large group of people could be handled very well and very safely in the community," says Jerome Miller, director of the National Center on Institutions and Alternatives in Alexandria, Va. Since 1979 the center has worked with some 5,000 criminals in 46 states. Its role begins after the guilty finding, during the period when the parole department traditionally does a presentencing investigation of the offender. The center takes over that investigation, spending as much as 50 hours studying the offender's history, family situation and community ties, then coming up with a community-based alternative to prison. According to Miller, the center

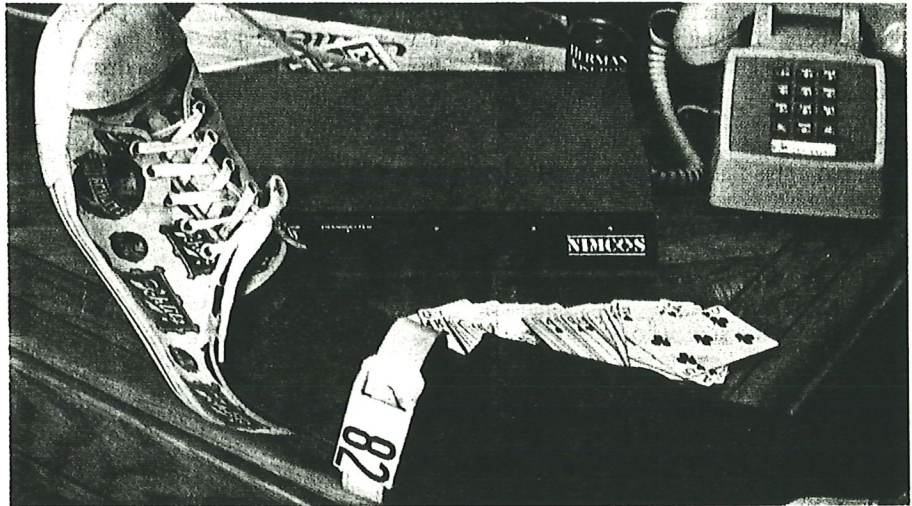
"wins" about two-thirds of its cases, meaning that the judge goes along with its recommendation.

There is nothing soft or easy about the sentences his group devises, says Miller. The offender is required to hold a job and do community service. House arrest may also be imposed, monitored by someone from the community or a social agency. "We have no hesitation to build a very stringent proposal," he says. "We've had people who would rather go to prison."

box. According to Cunniff, there is now a breath analysis device that can be attached to a phone to check an offender's alcohol use.

Such innovations have given rise to concerns about privacy as well as equipment failure. "Electronic monitoring is not a quick-fix answer, and it's not automatically an infringement on people's rights," says Mark Corrigan, director of the National Institute for Sentencing Alternatives, a public policy center at Brandeis University. "We should welcome exploration. If the technology doesn't work well, we ought to keep working on it."

Of course, all of these programs are ultimately judged by whether the offender commits another crime. The recidivism



An electronic monitor tells police whether someone under house arrest stays put.

The National Center on Institutions and Alternatives is one of about 80 programs nationwide that do what is called defense-based sentencing. Many of these owe their existence to the Edna McConnell Clark Foundation. Over the past six years, the foundation has spent about \$15 million on alternative sentencing research and development.

One form of punishment getting a great deal of attention is electronic monitoring, a component of many house arrests. The monitoring equipment comes in two basic forms. One is a transmitter worn by the offender that broadcasts a continuous signal picked up by a receiver-dialer. The receiver reports to a central computer if the signal is interrupted, usually when the wearer strays too far from the receiver. The other is a programmed contact device. A computer calls the offender, who is wearing a wristlet that he must insert into a verifier

rate for those who serve time in prison is around 70 percent. The reverse is claimed to be the case with alternative sentences. Of those who served alternative sentences fashioned by the NCA, 75 percent have not been arrested again, according to one follow-up study.

"There's a great myth about how nothing works in corrections: No matter what you do, people will offend at the same rate," says Miller.

"That's simply not true," he says. "I would think that probably about a third or more of our people will tend to get in trouble again. I think about two-thirds won't. If the person does reoffend and it isn't as serious an offense as the original offense, we'll go back and try to put something together. . . . If you get a guy who's assaulting people and he shoplifts a year later, that's progress."

— Deborah Papier

**CORRECTIONS OMBUDSMAN BOARD OFFICERS**

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Shari Caywood, Vice-Chairperson  
Floyd Gaunt, Secretary



**OFFICE OF THE OMBUDSMAN FOR CORRECTIONS**

717 Kansas Avenue  
Topeka, Kansas 66603  
(913) 296-5295  
KANS-A-N 561-5295

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**OMBUDSMAN**

Steven A. Robinson

**OMBUDSMAN ASSOCIATES**

Micah A. Ross  
Richard D. Mills  
Ron R. Ross

TESTIMONY OF STEVEN A. ROBINSON,  
OMBUDSMAN FOR CORRECTIONS,  
BEFORE THE SENATE JUDICIARY COMMITTEE ON H.B. NO. 3079  
April 5, 1988

I. Growth of Kansas inmate population - reasons

- A. Increased Incarceration Rates
- B. Decreased Allocated Good Time Credits
- C. Decreased Numbers of Inmates Paroled

II. What H.B. No. 3079 Addresses -

- A. Provides more liberal allocation of good time credits
  - 1. allows for earlier parole eligibility and conditional release
  - 2. reduces length of time parole board has discretion
  - 3. helps reduce inmate population upon enactment
- B. Set up parole hearing one month before parole eligibility
  - 1. frees up bed space earlier
  - 2. allows DOC to anticipate parole releases
- C. Allows SOC to assign level of supervision
  - 1. provides for level of supervision to be based upon actual needs
  - 2. provides more flexibility and efficiency in case load management
- D. Establishes written agreement between SOC and inmate for required programs
  - 1. requirements are set by SOC based upon inmate needs and program availability

Att. II

2. puts the responsibility for successful program completion and appropriate adaptive behavior directly with the inmate
  3. allows the agreement to be modified should inmate needs or program availability change
  4. limits length of pass by parole board to one year
  5. allows DOC to anticipate program needs
  6. excludes KPB entirely from making programs recommendations
- E. Establishes authority for SOC to place inmates on extended supervised furloughs six months before parole eligibility
1. allows the SOC latitude to reduce over-crowding
  2. allows deserving inmates to be slowly reintegrated into their communities under a supervised program
  3. allows for automatic parole of those successfully completing the extended furlough program
- F. Allows the courts and the SOC to use house arrest with electronic monitoring as an alternative to incarceration
1. provides relative safety to the community
  2. allows participants to remain in or slowly re-integrate into the community while being closely monitored
  3. further allows participants to work, pay taxes, and contribute to the operating costs of the program
  4. can be a self supporting program within a relatively short time

III. Primary Benefits of H.B. 3079

- A. Cost effective
- B. Helps reduce over-crowding
- C. Provides predictability
- D. Provides for a more cohesive relationship between the parole board and DOC
- E. Assists the DOC in complying with the Federal courts order

IV. Enactment of H.B. 3079 creates the need for increased funding to provide more court services and parole offices to adequately monitor those affected by this bill

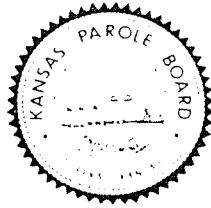
V. Amend in Sections 1 & 2 of S.B. No. 366

VI. Amend out Section 6 of H.B. 3079



APPENDIX I

Fiscal year	1980	1981	1982	1983	1984	1985	1986	1987	1988 1st Half
Crime Index - incidence per 100,000 population	52.9	54.3	50.4	46.0	43.6	43.7	47.6	44.5	N/A
Number of prisoners in custody of SOC - End of FY	2406	2638	2966	3353	3968	4490	4934	5586	5875
Number of state prisoners per 100,000 population	102	118	129	152	173	193	204	229	N/A
Number of Parole Releases	1234	1168	1344	1399	997	1063	1256	1193	804
Number of Paroles and Conditional Releases Revoked - technical violations	160	215	185	202	242	254	334	393	276
Number of Paroles and Conditional Releases Revoked - new sentence	148	228	218	240	249	158	162	197	92
Total Number of Paroles and Con- ditional Releases Revoked	308	443	403	442	491	412	496	590	368



Members

Elwaine F. Pomeroy  
Chairman

Joan M. Hamilton  
Vice-Chairman

Frank S. Henderson, Jr.  
TOPEKA, KANSAS 66612-1220  
(913) 296-3469

**KANSAS PAROLE BOARD**  
**LANDON STATE OFFICE BUILDING**  
**900 JACKSON STREET, 4TH FLOOR**  
**ROOM 452 S**

George V. Jones  
Director

OUTLINE OF REMARKS

By Elwaine F. Pomeroy

Chairman, Kansas Parole Board

Senate Judiciary Committee

April 5, 1988

House Bill 3079

Will provide better communications

Kansas Parole Board program recommendations have been misunderstood

Amendments have greatly improved bill

Kansas Parole Board objected to needless work

Kansas Parole Board does not object to needed work

Bill now provides workable program framework

Programs are important

Programs should not be sole criteria

Bill now makes clear Kansas Parole Board considers other factors

Further amendments can provide greater improvement

Concerned about line 163 "specific reasons"

Lines 191 + 192 "state in detail the specific reasons"

Pending lawsuit

Appreciate guidance, comments in minutes

Att. III

Comments in minutes - line 57 - no change

Very concerned - new parole hearing every year

Try to be realistic in our pass lengths

Request sentence be deleted - lines 192 - 194

Hope Kansas Parole Board input would be considered lines 195 - 204

Section 2 - suggest a statement of formula

Lines 1172 - 1181 - Comment in minutes

Concern about Ex Post Facto law

Administrative authority for chairperson

Selection by governor

Mixed signals - Sections 3, 6 and 8

Do you want Kansas Parole Board to consider prison capacity?

If so, include capacity as a factor

If not, don't hold Kansas Parole Board responsible for overcrowding

Suggest addition of public and victim input as factors

Kansas Parole Board willing to accept burden bill will impose

Kansas Parole Board plan to implement provisions

Kansas Parole Board pledges cooperation

Incorporate Senate Bill 366

DEPARTMENT OF CORRECTIONS  
H.B. 3079  
Proposed Amendment

(P.16, Lines 1340-1360 and p. 17, Lines 1365-1368.)

That K.S.A. 21-4603(4) be amended to read as follows:

(4) ~~Upon hearing,~~ The court may ~~reduce-the-minimum-term-of~~  
~~confinement~~ modify the sentence at any time before the expiration  
thereof when such ~~reduction~~ modification is recommended by the  
secretary of corrections and the court is satisfied that the best  
interests of the public will not be jeopardized and that the  
welfare of the inmate will be served by such ~~reduction~~ modifica-  
tion. ~~The-power-here-conferred-upon-the-court-includes~~ The Court  
shall have the power to impose a less severe penalty upon the  
inmate, including the power to reduce the minimum below the  
statutory limit on the minimum term prescribed for the crime of  
which the inmate has been convicted. The recommendation of the  
secretary of corrections, the hearing on the recommendation and  
the order of ~~reduction~~ modification shall be made in open court.  
Notice of the recommendation of ~~reduction~~ modification of  
sentence and the time and place of the hearing thereon shall be  
given by the inmate, or by the inmate's legal counsel, at least  
21 days prior to the hearing to the county or district attorney  
of the county where the inmate was convicted. After receipt of  
such notice and at least 14 days prior to the hearing, the county  
or district attorney shall give notice of the recommendation of  
~~reduction~~ modification of sentence and the time and place of the

Att. IV

hearing thereon to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's next of kin if the next of kin's address is known to the county or district attorney. Proof of service of each notice required to be given by this subsection shall be filed with the court.