

Approved March 1, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Michael O'Neal at
Chairperson

3:30 ~~xxx~~ p.m. on February 14, 1989 in room 313-S of the Capitol.

All members were present except:

Representatives Everhart, Hochhouser, Peterson and Vancrum, who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Attorney General Robert T. Stephan
John Wine, Jr., Assistant Secretary of State
Betty Bomar, Executive Director, Crime Victims Reparations Board
Becky Matin, Executive Director, Kansas City Outside Connection, Inc. (Written testimony only)
Lisa Nathanson, Director, Legal Services for Prisoners, Inc.
Jim Snyder, Executive Director, The Kansas Funeral Directors and Embalmers Association, Inc.
(Written testimony only)

BILL REQUESTS:

John Wine, Jr., Assistant Secretary of State, requested the Committee introduce two bills. The first bill would permit a corporation in the process of reinstating to designate a new registered office and resident agent. The second bill request would delete some unnecessary requirements of notarization.

A motion was made by Representative Shriver and seconded by Representative Jenkins to introduce the bills requested by the Secretary of State. The motion passed.

CONTINUATION OF HEARINGS ON:

- H.B. 2198 - Criminal procedure, parole and supervised furlough
- H.B. 2199 - Requiring notice to be given to victims of crime of inmate's public hearing and release of inmates; release considerations
- H.B. 2200 - Crime victims, reparations & assistance
- HCR 5008 - Constitutional amendment, victims rights

Attorney General Robert T. Stephan addressed the bill of rights and the increase in funding through the Reparations Board. The constitutional amendment gives the victim the same rights as the defendant. The right to be present would be the same for the victim as the rights that have been accorded the defendants in case law as the result of the interpretation of the constitution and statutory amendments.

In regard to increased funding, the Attorney General said raising the docket fee from \$2.00 to \$5.00 would raise \$477,000. Using 1987 figures \$1,192,500 would be raised based on a \$5.00 docket fee. In 1985 the docket fee was raised from \$1.00 to \$2.00.

In answer to Committee questions, the Attorney General said the prosecuting attorney should have the obligation of notifying the victim. He said three states have a constitutional amendment for victims' rights. He explained the main concern of the victims is that they are not being informed. The constitutional amendment is one way to address the problem. This problem could be addressed statutorily. In regard to Section 30 of the constitutional amendment, it was the consensus of the Task Force that there should be more state involvement in the victim witness program and more state assistance to the program.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

room 313-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 14, 1989

Betty Bomar, Executive Director, Crime Victims Reparations Board, testified additional funding amounts are needed and necessary. The Crime Victims Reparations Board is currently operating at a \$29,000 a month deficit. There is presently a 60 to 90 day lag time before payments are made. Unless a supplemental appropriation is made for this fiscal year, the meeting on February 24 will exhaust their present appropriation limitation of \$431,000. They presently administer monies received from marriage license fees, \$170,773 of which is granted through Crime Victims Reparations Board to sixteen domestic violence programs throughout the state. An increase in the marriage license fee would provide additional funding enabling the Board to assist additional programs presently in existence and further to allow the shelter to broaden their programs, see Attachment I.

Becky Matin, Executive Director, Kansas City Outside Connection, Inc., submitted written testimony that only one department should set the program requirements, based on what the inmate's needs are. The Department of Corrections should be the one to do that since they have a full service mental health staff employed, see Attachment II.

Lisa Nathanson, Director, Legal Services for Prisoners, Inc., testified there are two specific items that are not victims' rights proposals in H.B. 2198 and H.B. 2199. She is opposed to repealing the six-month supervised furlough. She also stated she opposes the provision of H.B. 2198 which would restore to the Parole Board the power to require further incarceration for purposes of additional program participation, see Attachment III.

Jim Snyder, Executive Director, The Kansas Funeral Directors and Embalmers Association, Inc. submitted written testimony in support of increasing funeral expenses to \$2,000, see Attachment IV.

The Committee meeting was adjourned at 5:10 p.m. The next meeting will be Wednesday, February 15, 1989, at 3:30 p.m. in room 313-S.



STATE OF KANSAS
CRIME VICTIMS REPARATIONS BOARD

117 W. 10TH
TOPEKA, KANSAS 66612-1208
(913) 296-2359

Joint Meeting of Senate & House Judiciary Committees
Monday, February 13, 1989
3:30 p.m.
Topeka, Kansas

Members of the Senate & House Judiciary Committees

Attorney General Stephan

Judge Beasley

Ladies and Gentlemen:

Thank you for giving me this opportunity to speak to you today. I am here as the Director of the Crime Victims Reparations Board, an orphan of state government. First, a little history.

In 1976 when the first legislation creating a crime victims program was introduced, the Legislature considered putting the agency under the Attorney General's office. This proposal was not met with any eagerness by our then Attorney General. In 1978 when the legislation was actually enacted our then Governor was quite receptive to the concepts embraced by the proposed program and was quite receptive to its being under his auspices. The Governor was defeated in November '78, and the program then lost its high profile state advocate until Attorney General Stephan picked up the banner.

You have heard the Task Force recommendations. We, as an agency, are concerned by some of them due to the matter of funding. This is our primary concern - decide the manner of additional funding and some of the other

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Judiciary Committees

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recommendations can then be implemented. The decisions regarding funding are yours. The two recommendations of the Task Force included in H.B. 2200 are:

1) 3(f) Raising the criminal docket fee from \$2 to \$5. This will raise approximately \$1,208,160, or an increase over present estimated receipts of \$724,656. We presently average \$40,292 per month receipts from docket fees.

2) Sec. 5 The probation services fee, a new concept for funding of Crime Victims compensation, is estimated to raise \$800,000.

Additional funding amounts are needed and necessary.

The Board further receives monies from restitution payments and inmate contributions. These two sources provide approximately \$2,547 per month.

There are presently two recommendations which would not have a large fiscal impact; raising the maximum for burial from \$750 to \$2,000; and doing away with the financial means test as provided in Sec. 14(d).

The matter of raising the maximum from \$10,000 to \$25,000 is meritorious; and perhaps feasible when adequate funding is provided. We figure that it would affect approximately 5% of our claims; but would fiscally impact close to 50% of them. We presently operate at a \$29,000 monthly deficit - with Decision and Orders presently approved - payments cannot be made until at least the middle of April. Some of those awards were made in December 1988. There is presently a 60-90 day lag time before payments are made. Further, unless a supplemental appropriation is made for this fiscal year, the meeting on February 24th will exhaust our present appropriation limitation of \$431,000.

Unfortunately, from claims received to date, the number of claims are not decreasing. The violence we are experiencing in our country and state are in epidemic proportions. Between the problems created due to drug and alcohol

*H.J. 2/14/89
Att I*

abuse; the domestic violence, and the child sexual abuse cases, we find most distressing, the increase in child sexual abuse claims. At the present time, claims as a result of child sexual abuse and incest comprise 41% of all our claims; surpassing those resulting from assaults which have always been the largest percentage of our claims. When you realize that children under the age of 12 comprise 35% of our claims - it is time to get upset. These are only those cases which have been reported to authorities.

What can be done about the violence? I don't know - I do believe that we can assist in the areas of domestic violence and child abuse. We presently administer monies received from marriage license fees, \$170,773 of which is granted through Crime Victims Reparations Board to sixteen domestic violence programs throughout the state. An increase in the marriage license fee would provide additional funding enabling the Board to assist additional programs presently in existence in the state and further to allow the shelter to broaden their programs. Hopefully, through counseling, additional programs at the local level, and hard work, we can commence to rectify some of the problems that confront us - a "gentler, kinder" state and nation would certainly be a state we should all strive to achieve.

Again, I thank you for this opportunity to speak to you. If you desire more in-depth information regarding the present program, the Board and staff stand ready to comply with any of your requests.

Betty A. Bomar

Director

*J.J. 2/14/89
Att I*



KANSAS CITY OUTSIDE CONNECTIONS

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

Becky Matin-Johns
President/Project Director

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Father Dave Coleman
and
Father Dennis Wait
Blessed Sacrament
and
Our Lady and St. Rose

Rev Glenn Palmberg
Olathe Covenant Church

Curtis Graham
Wyandotte County
Community Corrections

Ondra Keeling
Catholic Social Service
Emergency Assistance

February 14, 1989

Mr. Chairman, Committee Members, my name is Becky Matin.

I am the Executive Director of the Outside Connection, Inc..

I am here to speak to H.B. 2198.

While we happily applaud the advances in all areas of Victim Rights issues--we fail to see how H.B. 2198 applies to the Victim Rights Bill.

Program needs of Kansas prisoners have become more of a power struggle than a needs assessment as it should be. Less than one year ago the Legislature passed H.B. 3079. That bill allowed for a program agreement between the Department of Corrections and the inmate as to what programs the inmate would be required to complete before parole. Now you are considering drastically altering that arrangement without even giving the system enough time to evaluate the effect of last years new statute. Frankly, I fail to see the rational of giving two different state authorities the ability to determind program needs. The Department of Corrections has a professional psychiatric and psychological staff that is more than qualified to determind program needs. Why do we need another department-- the parole board, to duplicate that same service. Are we saying that the departments evaluations are not accurate

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Attachment II



KANSAS CITY OUTSIDE CONNECTIONS

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Catholic Social Service
Emergency Assistance

and that the psychiatrist and psychologist that work for the state are not capable of making the proper recommendations? If so, than a more appropriate change would be some internal management adjustments. Are a group of people--the majority of which are attorneys, more qualified to determind program needs than the mental health staff that is currently employed by the state? The issue, to us anyway, is that two different departments not play tug of war. One department, and only one , should set the program requirements, based on what the inmate's needs are. It only seems logical that the Department of Corrections be the one to do that since they have a full service mental health staff employed. I would not for one minute want you to think we are not concerned about the victim rights issues. We are, and probably more so than most people would believe. It just seems to me that you are mixing apples and oranges here. I really believe that deciding who determinds the program needs of prisoners should not be a part of a Victim Rights Bill. I would think that the concern would be that the offender receive all the needed programs, and not who should determind those needs.

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Ondra Keeling
Catholic Social Service
Emergency Assistance

My job today is to represent some 1500 -2000 prisoners families, who are usually the forgotten victims of all crime. They too were innocent parties in the crime; but, my perspective is not just that one-sided. My family and I have also been the victims of some very violent crimes, both personal and property. I too have been robbed, assaulted, and some 22 years ago a very close family member was murdered. Just two years my step-daughter's mother was shot in the head and killed while she sat in her car and waited for her husband. Everyday I see and experience the pain of crime, and everyday I am more and more convinced that our decisions involving crime and those that commit crime must be logical decisions--made intellectually and not emotionally.

H. J. 2/14/89
Att II

LEGAL SERVICES FOR PRISONERS, INC.

P.O. BOX 829
TOPEKA, KANSAS 66601
(913) 272-4522

DIRECTOR
LISA NATHANSON
LITIGATION ATTORNEY
STEPHEN W. KESSLER

STAFF ATTORNEYS
MARK A. ORR—KSIR
KIM T. PARKER—KSIR
GARY L. FULLER—KSP
BRUCE C. HEDRICK—KSP
JEFFREY C. CAMPBELL—KSP

Summary of Testimony of Lisa Nathanson,
Director, Legal Services for Prisoners, Inc.
before the House Judiciary Committee on
February 14, 1989, regarding HB 2198 and
HB 2199.

I wish to address only two specific aspects of HB 2198 and HB 2199 to which I am opposed. While these provisions have been included as part of a package of proposed "victims' rights" legislation, they themselves do not appear to involve or be related to issues of victims' rights. In fact, while I am certainly supportive of virtually any legislative enactments which benefit victims of crime, one of my reasons for opposing the two specific items in question is the fact that they are not victims' rights proposals and are therefore not appropriately included in the package.

First, both HB 2198 and HB 2199 contain provisions which would repeal K.S.A. 22-3726. K.S.A. 22-3726 empowers the Secretary of Corrections to place on a six-month supervised furlough any inmate who has achieved minimum custody and who is within six months of parole eligibility; upon successful completion of the six-month furlough, the inmate is automatically granted supervised parole without a parole hearing. I oppose the repeal of this statute. Despite the fact that the Secretary of Corrections has had the power to grant such furloughs since May 19, 1988, only one inmate has been furloughed, and that was very recently. It clearly makes no sense to eliminate a program which has not yet been given a fair chance to succeed and which certainly has not suffered any failures. I believe the legislature made the correct decision when it created the furlough program in last year's session; the program is a helpful tool for the Secretary of Corrections to use as part of a multi-faceted approach to confronting prison overcrowding and that the fact that the program has been and probably will continue to be used very sparingly demonstrates that it should not be eliminated.

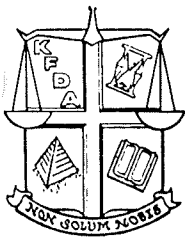
Secondly, I believe that the passage during last year's session of legislation which requires the Department of Corrections to enter into agreements with inmates which outline the rehabilitative programs the inmates must complete to become suitable for parole and which prohibits the Kansas Parole Board from requiring further program participation for inmates who have successfully completed their program agreements was appropriate, and I therefore oppose the provision of HB 2198 which would restore to the parole board the power to require further incarceration for purposes of additional program participation. It makes absolutely no sense to have the Department of Corrections and its experts (psychologists, psychiatrists and social workers) evaluate an

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inmate, prescribe the necessary programs, certify satisfactory completion of those programs to the parole board and for the parole board to then turn around and deny parole and require additional program participation. This is particularly true because the parole board has no staff with any expertise who are thereby qualified to be making such recommendations as does the Department of Corrections. Last year's legislation simply resolved the issue of the sometimes troublesome division of authority between the KPB and the DOC to prescribe the rehabilitative programs in which an inmate would be required to participate. The DOC program agreement arrangement has not been in effect all that long, but it seems to be working quite well. Please do not interfere with its current and potential success by repealing it.

In the interest of the consistency and predictability we so desperately need within our criminal justice, prison and parole system, we need to maintain these programs as they now exist.

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THE KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION, INC.

EXECUTIVE OFFICE — 1200 KANSAS AVENUE, P.O. BOX 1904

TOPEKA, KANSAS 66601

PHONE 913-232-7789

AFFILIATED WITH N. F. D. A.

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Manhattan

February 14, 1989

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Kansas House Judiciary Committee

Statehouse

Topeka, KS 66612

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PHIL PHILLIPS
Ulysses

Corporate Secretary

LARRY ENFIELD
Norton

Dear Mr. Chairman:

Executive Director

JIM SNYDER
Topeka

Regarding House Bill 2200, page 12, line 453...the Kansas Funeral Directors Association recognizes this as a small part of a large conception--victim rights--and does favor the conception as a whole...however, we do favor the increase in funeral expenses as an action truly needed.

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We were contacted by the AG's office regarding a figure for families having a need for this help and the amount of \$2,000 was derived as equal to the dollar amount exempted by SRS as a resource when someone needs to qualify for eligibility entrance into one of their assistance programs. This amount still falls well below the average for a funeral and, in fact, represents less than 60% of this figure when both funeral and cemetery expenses are combined.

Certainly, the figure should be raised, and the proposed \$2,000 is acceptable to our Association. Thank you for your consideration in this matter.

Sincerely,

Jim Snyder
Executive Director

cc: Judiciary Committee
KFDA Committee

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Attachment IV