

Approved 3-28-89
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

10:00 a.m./p.m. on March 7, 1989 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~: Senators Winter, Yost, Moran, Bond, Feleciano, Gaines, D. Kerr, Martin, Morris, Parrish, Petty and Rock.

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Jane Tharp, Committee Secretary

Conferees appearing before the committee:

Kenneth Hales, Shawnee County Community Corrections Director

Senator Yost moved to approve the minutes of February 22, 1989. Senator Morris seconded the motion. The motion carried.

Senate Bill 49 - Corrections, community corrections, participation by counties.

The chairman called the committee's attention to the subcommittee report before them (See Attachment I). He explained this will be a substitute bill. He read the subcommittee report. During committee discussion Kenneth Hales, Shawnee County Community Corrections Director explained a section in the bill that removed the planning funds for new programs. Following considerable committee discussion, Senator Gaines moved to amend the bill by adopting the subcommittee report. Senator Parrish seconded the motion. The motion carried.

Senator Rock made a conceptual motion to amend the subcommittee report to provide that the comprehensive planning money would be in the amount determined by the state board, and the planning money appropriated to DOC new programs would be initially that of DOC but appealed to the state board. Senator D. Kerr seconded the motion. The motion carried.

Senator Gaines made a conceptual motion to amend the subcommittee report to provide the appeals go to the state board. Senator Bond seconded the motion. The motion carried.

Senator Gaines moved to amend the subcommittee report to provide that the membership on the appeals board would be established with two judges appointed by the chief justice, three appointed by the governor, one representing Social and Rehabilitation Services, one representing DOC and one representing community corrections. Senator Bond seconded the motion. The motion carried.

Senator D. Kerr made a motion to amend the subcommittee report to provide for extention of call back regarding boot camp. Senator Gaines seconded the motion. The motion carried.

Senator Parrish moved to amend the subcommittee report that each county will use FY'89 and build their budgets on this basis. Senator Petty seconded the motion. The motion carried.

Senator Petty moved to amend the subcommittee report to provide the conservation camps are not community corrections and don't come under the jurisdiction of the board. Senator Rock seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 7, 1989.

Senate Bill 49 - continued

Senator D. Kerr moved to amend the subcommittee report to provide the boot camps be operated by DOC with exception of all others. When a new conservation camp is set up, it will be operated by DOC. Senator Moran seconded the motion. The motion carried.

Senator Bond moved to adopt the subcommittee report as amended and amend the bill accordingly. Senator Parrish seconded the motion. The motion carried.

The meeting adjourned.

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

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 3-7-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Paul Shelby	Topeka	OJA
Walter Torker	Manhattan	Kansas Farm Bureau
Kerr Baker	Topeka	KCMR
Connie Breen	Lawrence	
Tom Hillis	Topeka Ks	Shannon County Commission
Vern Sloan	Topeka	Doc
M. Hawon	"	CWA Local 41
Tom Smith	"	FS Bar Assoc
Jerry Sloan	"	OJA

REVISED
SENATE SUBCOMMITTEE REPORT
SENATE JUDICIARY COMMITTEE

S.B. 49

1. The Subcommittee met for approximately six hours and heard testimony and sought input from a number of sources, including Judge Newton Vickers and Judge Jim Buchele, Shawnee County District Court Judges, representatives of various community corrections programs, representatives of the Department of Corrections, and representatives from the Kansas Association of Counties. The Subcommittee also heard from M. Kay Harris, Associate Professor, Temple University. Professor Harris is the Principal Investigator of an extensive study of the Kansas Community Corrections programs, the results of which will be formally prepared and released within the next several weeks. The study was initially requested several years ago by the Kansas Department of Corrections and received funding support from the Edna McConnell Clark Foundation, a private foundation interested in criminal justice issues. Among other things, the results of the study indicate the following:
 - a. that between 50 percent and 75 percent of the adult population served by Community Corrections would have been placed in the custody of the Secretary of Corrections and housed at a Department of Corrections (DOC) facility, had it not been for the existence of Community Corrections;
 - b. that the cost of Community Corrections programs is significantly less than the cost of incarceration;
 - c. that the funding formula which, among other things, takes into account the relative wealth of counties, does not appear to have application under the current system, particularly in light of the fact that "charge-backs" have been eliminated from the formula; and
 - d. that the rate of recidivism of Community Corrections participants is approximately the same as with inmates who have been in the custody of the Secretary of Corrections. Subsequent offenses of Community Corrections participants, however, tend to be almost exclusively misdemeanors and non-violent felony offenses. As a result, there does not seem to be a significant increase or decrease in public safety as a result of the existence of the current Community Corrections program.
2. The Subcommittee was informed by the District Judges that there is a significant "waiting list" for admissions into the Community Corrections program in Shawnee County as a result of the limit on funding because of the current formula. Both judges indicated that their use of Community Corrections (as opposed to incarceration) for offenders would increase significantly if funding was changed.
3. The Subcommittee notes that many of the provisions of S.B. 49, as recommended by the Subcommittee, may be changed or altered significantly in the event that the Legislature eventually enacts a "structured sentencing" system as the result of the

*Attachment I
Senate Judiciary Committee
3-7-89*

work of the Commission created by S.B. 50. Changes recommended by the Subcommittee would be of considerable assistance in the operation of the system, pending the adoption of any such proposal.

The following is a list of suggested amendments or additions to S.B. 49 agreed to by the Senate Judiciary Subcommittee, as clarified or refined by the Committee Chairman:

Sentencing

1. Presumptive Sentences. A presumptive sentence effective January 1, 1990 to community corrections for C, D, and E felonies would be established subject to:
 - a. The existing presumptive sentence of probation or community corrections for first time class E felons would continue.
 - b. The presumption of community corrections sentence would kick in as the second choice if probation was not opted for in subsection (a).
 - c. In determining whether the presumption of community corrections would apply, a court shall consider as aggravated circumstances whether the crime involved the following: (1) sale of drugs; (2) a sex crime; or (3) existence of prior felony convictions.

2. Boot Camps. The name of these facilities would be changed to conservation camps. The maximum stay in these camps would be six months. Other changes include:
 - a. Amend K.S.A. 21-4603a to permit the judge to sentence directly to a conservation camp.
 - b. Alternatively, permit the Secretary of Corrections, following diagnostic evaluation, to assign persons to conservation camps.
 - c. Prior to the end of the 180 days under both subsections (a) and (b), the camp administrator and the Secretary of Corrections shall file a performance report with the sentencing court in sufficient time for the court to modify the sentence. The judge shall be required to enter an order upon review of the report either reaffirming his original sentence or modifying the sentence as permitted by sentencing the person to prison, community correction, probation, or other authorized disposition.
 - d. Amend the call back provision from 120 to 180 days in K.S.A. 21-4603a for any person.
 - e. Permit existing camps to contract on an annual basis with DOC for services.
 - f. All future camps are to be established by DOC.

3. Funding. Funding of community corrections shall be based on a formula including the following:
 - a. Each county will use FY 1989 per capita costs and build their budgets on this basis. No county will receive less than its FY 1989 per capita costs as long as they continue to serve the same number of persons and offer the same programs. Community Corrections programs shall be funded to include all actual audited costs incurred for approved programs included without limit fixed administrative costs.
 - b. New programs will be funded at a rate estimated by the DOC based on existing program experiences.

4. Administration. A five-member state community corrections board would be established with three members appointed by the Governor and two district or appellate justices appointed by the chief justice. The three gubernatorial appointments would include one representing the DOC, one representing Social and Rehabilitation Services involved in juvenile matters, and one actively involved with community corrections programs. The Governor would name the chairperson. The board would have the following final decision responsibilities: (1) act as review or appeals panel from DOC decisions regarding funding of local programs, e.g., individual budgets, new program costs; (2) act as a review or appeals panel from DOC decisions regarding organization of new community corrections counties, their plans for services, and grants for developing such plans (in making these decisions, the Board shall encourage contracting or cooperative multi-county programs); and (3) establish performance evaluation standards.

5. County Mandated Participation. Each county not currently served by a community corrections program would have until January 1, 1990, to establish a program. Options would include: (1) establish a single county program; (2) enter into a contract with an existing program to provide community corrections services; or (3) enter into an agreement to establish a regional or multi-county community corrections program. Each county would be guaranteed at least one representative on the joint county community corrections advisory board. Further, each judicial district within the multi-county area must have one judge on the board. The administrative judge in each judicial district not currently served by community corrections must make a recommendation by September 15, 1989 to each board of county commissioners within his or her judicial district as to which option the county should choose.