

Approved *Ginger Barr*
March 14, 1990 Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Ginger Barr at
Chairperson

1:32 ~~xxx~~/p.m. on February 21, 1990 in room 526-S of the Capitol.

All members were present except:

Representatives Cates - Excused
Sprague - Excused

Committee staff present:

Mary Galligan, Kansas Department of Legislative Research
Lynne Holt, Kansas Department of Legislative Research
Mary Torrence, Revisor of Statutes Office
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

Sherman Parks, Legal Counsel, Secretary of State's Office
Ed Van Petten, Deputy Attorney General, Criminal Division
Joan Hamilton, Victims Rights Task Force
Dick Kerner, Department of Corrections
Frank Henderson, Chairman, Kansas Parole Board

Chairman Barr announced the committee would begin work on a number of parimutuel bills next week and requested the committee review the interim report on the subject.

HB 2663

Representative Sebelius moved to delete Section 1 of the bill, seconded by Representative Aylward. Committee discussion noted the absence of requirements of the Supreme Court in the Bellotti case, the prediction of a significant rise in malpractice suits, lack of clarity concerning some definitions, probable difficulty with the notification of both parents in some cases and the adverse effect on the medical community of the penalty section. Representative Peterson made a substitute motion to report the bill adversely, seconded by Representative Roy. The motion carried. Requested to be recorded as voting no were: Representatives Bryant, Eckert, Long, Ramirez, Roper and Sughrue.

HB 2779

Regarding the section on page one concerning the minor's rejection of notice to parents, the physician's informing her of her rights, referral to SRS - Representative Wagnon moved to include either SRS or a local health department - social workers or nurses, seconded by Representative Gjerstad. Discussion included concerns similar to those expressed regarding HB 2663 in addition to the lack of support shown for the bill during the hearings. Representative Peterson made a substitute motion to report the bill adversely, seconded by Representative Blumenthal. One member noted the possibility of bills being reported with no recommendation. Another member disagreed with rejecting the bill based on a guarantee of constitutionality and advocated an opportunity to debate the issue on the House floor. The motion carried on a vote of 11 - 8. Requested to be recorded as voting no were: Representatives Bryant, Eckert, Long, Ramirez, Roper and Sughrue.

SB 91

Representative Aylward moved to remove the bill from the table, seconded by Representative Douville. The motion carried. A member recalled the concern expressed by school boards regarding their possible liability in the requirement they counsel pregnant teens. Representative Roy moved to strike that provision, seconded by Representative Wagnon. Concern was expressed regarding the similarities of the bill to HBs 2663 and 2779. Additionally, a major reason for tabling the bill was to allow the two primary anti-abortion groups an opportunity to come to a consensus and none appeared to be forthcoming. Representative Peterson made a substitute motion to report the bill adversely, seconded by Representative

CONTINUATION SHEET

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room 526-S, Statehouse, at 1:32 ~~am~~/p.m. on February 21, 1990.

Gjerstad. One member noted the two groups were in agreement on HB 2663. The motion carried. Requested to be recorded as voting no were: Representatives Bryant, Long, Ramirez, and Sughrue.

Sherman Parks requested introduction of a bill creating a Christopher Columbus 500th Jubilee Commission. He explained the bill would allow the commission to receive contributions allowing for local organizations, communities and cities to participate in the celebration of the event which will be nationwide. He stated there would be no legislative monies at this time for this event. Attachment No. 1 is the bill draft. Representative Peterson moved to introduce the bill, seconded by Representative Ramirez. The motion was adopted.

HB 2732

Ed Van Petten spoke in support of the bill as a means to return the granting of parole to the Parole Board, Attachment No. 2.

Committee discussion:

1. The previous legislation was enacted during the 1988 session. Under the previous Secretary, 13 prisoners were furloughed, 10 of whom received parole from the Parole Board within six months of the furlough. Under the current Secretary, the furlough program has been used once. The attorney general's office is in agreement with limited use of the program.
2. Mr. Van Petten clarified the position of the attorney general's office. This bill would permit the Parole Board the alternative of additional action after the person has successfully completed the six month furlough.
3. The legislation was originally requested by the Department of Corrections which contended there were a number of prisoners suitable for parole who met all of the qualifications and were taking up bed but were being passed by the Parole Board, often for periods of time. The committee had granted the flexibility to be used on a limited basis by the Secretary. At this time it appears to be used on a very limited basis. The attorney general was originally opposed to the program but had agreed to give it a chance.
4. re: Determination of the development of guidelines, the Department of Corrections has a continual evaluation process within the department. There appears to be a number of people considered good parole risks who are passed by the Parole Board.
5. The Parole Board uses the Department of Corrections file on a prisoner in making its determinations.
6. Mr. Van Petten was unaware if the Legislature had ever made a determination regarding the Secretary of Corrections authority over an individual after his/her release from prison.

Joan Hamilton substituted for Detective Randall Murphy, both members of the Attorney General's Task Force on Victim's Rights, and presented that group's support of the bill, Attachment No. 3.

Committee discussion:

1. The Department of Corrections has developed guidelines for evaluation of inmates while they are in prison. It does not take into account the crime for which the person was imprisoned nor how many times the person has been imprisoned which are two considerations of the Parole Board.
2. Main criteria of the Parole Board are:
 - a. Whether the number of disciplinary reports reflect the person had worked to the level of good behavior;
 - b. Completion of programs recommended by the diagnostic center or unit counselors;
 - c. Good work detail; and
 - d. Whether their attitude allowed them to be on the program.The criteria did not indicate for what crime the person had been committed except that class A felons or those convicted of sexual crimes were not to be in the program.

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3. Ms. Hamilton stated that the Department of Corrections (DOC) has interpreted lines 17-18 of the bill regarding eligibility for parole to mean first time eligibility. This interpretation is satisfactory to the task force but the manner of future interpretations would be a concern. In response to a member, Ms. Hamilton affirmed that her group would support an amendment which would not permit the consideration of any inmate for the program who had been passed over for parole by the Parole Board.
4. The difference in supervised furlough under the Secretary of DOC versus the Parole Board is that an inmate is never under the supervision of the Parole Board. Parole officers are under the control of DOC. The initial decision regarding the violation of parole by the inmate is not set by the Parole Board. That is also a decision of DOC.

Dick Koerner explained the DOC's opposition to the bill is based on what it believes to be the original intent and purpose of the extended furlough, Attachment No. 4.

Committee discussion:

1. It was clarified that there are two agencies making a determination concerning the eligibility for the extended furlough program though the Secretary of DOC can overrule the Parole Board.
2. Mr. Koerner called retention of the Secretary's right to overrule the Parole Board a check and balance DOC would like to retain and gave a case example.
3. Institutional or field service employees involved with inmates are considered by DOC to be better evaluators of the inmate's eligibility. The Parole Board's involvement is at the level of review and making a decision.
4. DOC's input into a Parole Board hearing is in the form of a written report although a representative of the unit team and parole officer are available for questions at the hearing. The parole plan is investigated by a parole officer who solicits input from local law enforcement and the district attorney which are also available for the Board's review.
5. DOC recognizes the decision for release should come from the Parole Board and does not consider the Secretary's override of the Parole Board's decision a mechanism to be used routinely for release.
6. Mr. Koerner stated the ultimate responsibility for the safety of the community in regard to released prisoners should be a shared responsibility of the Parole Board and DOC.
7. Parole officers report to the Secretary through the Deputy Secretary for field services and community corrections. If a parole case goes routinely, after two years, the reports are turned over to the Parole Board for a decision whether to discharge or continue parole.
8. If a parolee is in violation, DOC compiles the information and has a Morrissey hearing with the inmate to determine probable cause of violation of parole. If the inmate is in violation, he is brought back into the system, a hearing is scheduled before the Parole Board, the compiled information is presented and the Parole Board makes the decision whether to continue or revoke parole.
9. The supervision for the furlough program is the same as for parole.

Frank Henderson presented a detailed outline of the statutory responsibilities of the Parole Board, Attachment No. 5.

A member commented on the thoroughness of the report and suggested it be required reading for each member of the Legislature.

The meeting adjourned at 2:44 p.m. The next meeting of the committee is scheduled for February 22, 1990, 1:30 p.m. in Room 526-S.

HOUSE BILL NO. _____

By Committee on Federal and State Affairs

AN ACT creating the Christopher Columbus quincentenary jubilee commission to commemorate the quincentennial discovery of the Americas.

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

Section 1. (a) There is hereby created the Christopher Columbus quincentenary jubilee commission. The governor shall appoint a chairperson to the commission. The chairperson of the commission, shall appoint the members of the commission and the total number of members of this commission shall be determined by the chairperson.

(b) Members of the commission shall serve without compensation or expenses.

Sec. 2. (a) The Christopher Columbus quincentenary jubilee commission shall prepare an overall program for commemorating the 500th anniversary of the discoveries of the Americas by Christopher Columbus and plan, encourage, develop and coordinate observances and activities of this historic event.

(b) In preparing its plans and programs, the commission shall consider recommendations developed and suggested by local and private groups, and it may designate special committees with representatives from such bodies to plan, develop and coordinate specific activities.

(c) The commission shall not later than July 1, 1991, submit to the governor a report incorporating its specific recommendations for the commemoration of the Columbus quincentenary and related events.

(d) The report of the commission may also include proposals for legislation and administrative action the commission considers necessary to carry out its recommendations. The

commission may transmit copies of this report to the legislature.

Sec. 3. (a) In fulfilling its responsibilities, the Christopher Columbus quincentenary jubilee commission shall consult, cooperate with and seek advice from appropriate state departments and agencies, local public bodies, learned societies, and historical, patriotic, philanthropic, civil, professional and related organizations. State departments and agencies may cooperate with the commission in planning, encouraging, developing and coordinating appropriate commemorative activities.

Sec. 4. (a) The Christopher Columbus quincentenary jubilee commission is hereby authorized and empowered to accept donations, gifts, bequests or other contributions of money to be used in furthering the quincentenary year activities. All contributions so received shall be remitted to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and shall credit the same to a Christopher Columbus quincentenary jubilee fund, which fund is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

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TESTIMONY OF
DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN
ON BEHALF OF ATTORNEY GENERAL ROBERT T. STEPHAN
BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS
FEBRUARY 21, 1990
RE: HOUSE BILL 2732

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

As the committee may be aware, General Stephan and his Victim's Rights Task Force have stated in the past, their desire to eliminate the Furlough program. This is due to the ability to bypass the parole board which was built into K.S.A. 22-3726 as adopted.

House Bill 2732 will again give primary control of the decision to grant parole to the parole board, while still enabling the Secretary of Corrections to grant a trial period to an inmate believed to be worthy of parole.

It is obvious that there is no perfect solution to the problem of granting parole, however we should leave such decisions with the parole board. We feel that House Bill 2732 will leave the ultimate decision with those charged with that authority while leaving some flexibility with the Secretary to grant a trial period for certain inmates deemed worthy of such trust.

TESTIMONY FOR HOUSE BILL NO. 2732

TESTIMONY OF DET. RANDALL MURPHY

My name is Detective Randall Murphy and I am a member of the Attorney General's Task Force on Victim's Rights. I am also a member of a victim's family, and a law enforcement officer for _____ years in Wyandotte County. I am here to show the Task Force's strong support for H.B. 2732. The bill allows the Department of Corrections the authority to place inmates on the six-month supervised furlough program, but restricts the automatic parole of the same inmate without the authority of the Kansas Parole Board. Last year, the Task Force asked for the repeal of this program. We feel this is a good alternative and a good compromise. Kansas needs ONLY ONE PAROLING AUTHORITY and inmates need to be accountable to the guidelines and criteria established by the Kansas Parole Board, not the Department of Corrections. The DOC does not have any criteria set up for them to determine suitability into the community on parole. Their criteria and role involves the inmate's behavior in prison. This law would put the paroling authority back to the Kansas Parole Board. IT MUST BE CLEAR WHO HAS WHAT ROLE! H.B. No. 2732 does this. so we are asking for your support, in the language changes.

(Last year, DOC placed 14 inmates on this program to the A.G.'s Task Force's knowledge. Only one inmate has been placed on the program since SOC Steve Davies took over the reins. Though the inmates were minimum custody, many were in prison for violent crimes, i.e. 9 out of the first 13 inmates. At least two of the inmates had been denied parole by the KPB, but were placed on the program, thus superceding the authority of the KPB by the DOC, i.e. Ketterman and Ball).

PLEASE SUPPORT THIS MAJOR CHANGE IN THE PRACTICE OF PAROLE FOR VICTIMS OF CRIME. Thank you.

Richard Koetner
Deputy Secretary of Corrections - Operations

Mr. Chairman, members of the committee on behalf of Secretary Davis and the Department of Corrections I would like to begin by thanking you for giving us the opportunity to present our position on this bill (H.B. 2732).

I would also like to emphasize that though the Department of Corrections' position on this bill is in direct contrast to that of the Kansas Parole Board, this should in no way be construed as an indication that we are at odds with the Parole Board. On the contrary, I'll go as far as to say the relationship between the KDCC and KPB has never been better.

Our position on H.B. 2732 is based upon what we feel is the original intent and purpose of the Extended Furlough or what we have operationally termed the Community Reintegration Program.

From the outset, the KDCC has regarded the Extended Furlough as an option available to the Secretary to be used sparingly. More specifically, we see it as an option to be employed only in those situations where we feel the Parole Board has overlooked or misjudged a key element of an inmate's rehabilitation progress within the institution or a key element of an inmate's parole release plan. While we fully recognize that the Parole Board is the releasing authority, we

also recognizing that there are times when we perhaps are in a better position to determine an inmate's preparedness and suitability for release. We believe the 1988 Legislature also recognized this and for that reason vested the Secretary of Corrections with the authority to release certain selected inmates for an extended period of time in order to demonstrate his or her preparedness for parole.

Currently, the statute provides that an inmate who has been released on Extended Furlough be granted parole without further review by the Parole Board after a period of 6 months. During this 6 month period, the inmate is under the supervision of a state parole officer's "intensive ^{close} supervision." Intensive supervision entails at least 2 face to face per month at least 2 weeks apart, 1 field visit every 3 mo. per mo. 1 collateral per month.

No inmate can be released on an Extended Furlough unless he or she has already been before the Parole Board for parole consideration. In short, the Parole Board has already reviewed the case and denied parole. To again present the case for Parole Board review after 6 months success seems unnecessary; they have already taken the actions they deemed to be appropriate. Also, what point would it serve to bring the case back before the Parole Board, have the Board again opt to deny parole, and return the inmate to an institutional setting?

after he or she has been met the terms and conditions
of ^a ~~intentionally~~ ^{classified} supervised release for 6 months?

This seems contrary to the spirit and intent of
the 1988 legislation in granting Extended Furlough
authority to the Secretary.

As stated earlier, the KDCC views the Extended
Furlough option as an option to be used sparingly.
Since this option was granted in 1988 there
have only been 13 inmates released under these
provisions. It should also be noted that
all 13 were released during a short span of time
between 1-3-89 and 3-30-89. This we
feel is a clear indication of our commitment to
the belief that Extended Furlough option is to be
used sparingly. Further, as the dates of
release indicate, there have been no releases
under this program authorized by the current
KDCC administration.

Of the 13 inmates released:

10 paroled from program

6 < 2 mo.

2 = 6 1/2 mo

1 = 7 mo

1 = 8 mo.

(2 Ret to DOC as violators with no new charges)

3 Ret Before completing

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In conclusion, even though the current KDC administration has to date not authorized the release of any inmates under this program, the current administration views the Extended Furlough option as a worthwhile and necessary option that should be kept available for use in carefully selected cases. The authority has not and will not be misused and we encourage you to not revise the existing statute; to do so would negate the spirit, intent, and value of the Extended Furlough option.

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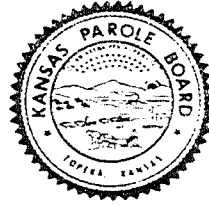
Frank S. Henderson, Jr.
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Carla J. Stovall
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Outline of Remarks

By Frank S. Henderson, Jr.

Chairman of the Board

House Bill 2732

February 21, 1990

The statutory responsibilities of the Kansas Parole Board are to:

Conduct parole hearings with individual inmates, for purposes of determining whether an inmate will be granted parole (K.S.A. 22-3717h);

Conduct an initial informational hearing with inmates, within a reasonable time after they have been committed to the custody of the Department of Corrections (K.S.A. 22-3717g);

Establish conditions of parole or Conditional Release, with which an inmate must comply (K.S.A. 22-3717j);

Revoke the parole or Conditional Release of an inmate when violations of the release conditions have occurred (K.S.A. 22-3722);

Discharge an inmate from parole or Conditional Release supervision when his obligations have been performed and the discharge is not compatible with best interests of society and the welfare of the individual (K.S.A. 22-3722);

Examine each application for pardon or commutation of sentence and submit a report to the Governor to aid him in making his final determination (K.S.A. 22-3701).

Time Calculations

Parole eligibility set by statute (K.S.A. 22-3725)
Minimum sentence less Good Time

Conditional Release set by statute (K.S.A. 22-3718)
Maximum sentence less Good Time

Rate at which Good Time earned set by Legislature

Current rate of Good Time - 1 day earned for 1 day served (on
sentence of 2 years or greater)
1 year minimum must serve 8 months

No authority to consider parole prior to Parole Eligibility

Unable to keep inmate beyond Conditional Release date

Distinctions between K.P.B and D.O.C.

Parole Board and Department of Corrections separate agencies

KPB uses DOC files and relies on its information
DOC charged with making time calculations

Parole Eligibility reports prepared by DOC

Comment forms mailed by DOC

KPB does not:

- Compute sentences
- Determine custody levels
- Place inmates in institutions
- Transfer inmates
- Decide disciplinary infractions
- Award or withhold Good Time credits
- Grant or deny furloughs
- Supervise parolees
- Initiate revocation proceedings
- Employ parole officers
- Have computer capabilities
- Conduct research

K.S.A. 22-3717(f) requires parole hearing to be held during the month prior to
the month an inmate becomes parole eligible

Parole hearings are held at the penal institutions

On day or days scheduled for parole hearings at an institution, Parole
Board sees all inmates entitled to a hearing that month

Factors considered in making parole decision

- Crime
- Criminal history
- Program participation
- Disciplinary record
- Parole plan
- Public comments
- Prison capacity

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Statutory standard "able & willing to be law abiding member of society"

Parole eligibility does not constitute parole suitability

HB 2199 found in Chapter 103 of 1989 Session Laws, codified practice of KPB to consider comments of the victim and the victim's family; comments of the public; and comments from officials

HB 2199 also mandates that KPB consider capacity of state correctional institutions

HB 2199 does not require KPB to give notice, but KPB is committed to helping make notification procedure workable

KPB has changed procedures in light of HB 2199

Notices of public comment sessions are being sent out earlier

Case numbers are now listed on notices of public comment sessions

Public input is received prior to parole hearings at public comment sessions

Public comment sessions are held each month in Kansas City, Topeka and Wichita

Public comment sessions are held the month before the parole hearing

Notices of public comment sessions are mailed out at end of month before the month of the public comment session

5 members on KPB, but only 3 serve on a panel

Panel of 3 has full authority of Board, except in some A and B felony cases

Our workload has increased

FY 1985	-	2325
FY 1986	-	2718
FY 1987	-	3072
FY 1988	-	3945
FY 1989	-	4457
First Half of FY 1990	-	2980

Although parole decisions are made by KPB, supervision of parolees is done by DOC employees

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Parole officers are DOC employees

KPB can not initiate revocation proceedings - must be initiated
by parole officer

Supervision will continue for at least two years, unless maximum sentence
date arrives earlier

DOC has used the six month furlough sparingly

We are not opposed to the six month furlough

We believe victim input is important as well as all of the other factors
we take into consideration in making our parole decision

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