

Approved July 6, 1990
Date

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS

The meeting was called to order by SENATOR AUGUST "GUS" BOGINA at
Chairperson

11:10 a.m. ~~p.m.~~ on APRIL 30, 1990 in room 123-S of the Capitol.

All members were present except:
Senator Doyen, who was excused

Committee staff present:

Research Department: Diane Duffy, Leah Robinson
Revisor: Norm Furse, Gordon Self
Committee Staff: Judy Bromich, Administrative Assistant
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Roger Werholtz, Department of Corrections
Joseph Ruskowitz, Director, Wyandotte County Community Corrections
William Kennedy III, Riley County Attorney
Mark Matese, Director, Douglas County Community Corrections

INTRODUCTION OF BILLS

Senator Salisbury moved, Senator Kerr seconded the introduction of bill draft 9 RS 3037 -- AN ACT concerning the employment security law; relating to the definition of employment. The motion carried.

Senator Allen moved, Senator Kerr seconded, the introduction of bill draft 9 RS 3033 -- AN ACT concerning school district limitations on budgets per pupil. The motion carried.

HB 3091 -- Community corrections, authority to discontinue certain services

Mr. Roger Werholtz reviewed Attachment 1, and noted that according to SB 49, if a county or group of counties proposes to serve the same number of persons as was served in FY 89, the grant cannot be reduced. He stated that without passage of HB 3091 there will be 2 sets of rules because the new counties will not have the protected floor.

In answer to a question, Mr. Werholtz stated that HB 3091 would allow for the elimination of some services if necessary. The decisions to cut services would be guided by the priorities list found in Attachment 1-5. He said that the authority provided through HB 3092 would put the Department of Corrections (DOC) in a better negotiating position with counties to provide services at lower costs.

Mr. Werholtz emphasized that fundamental programs in new counties could be funded without reducing services in existing programs if there was a significant amount of carryover money. He noted that the Department would like to combine the carryover money with the \$10.2 million appropriation and distribute it equitably across the state instead of automatically locking a certain amount of the \$10.2 million into the 10 existing programs.

Senator Winter noted his objection to HB 3091, stating that he felt the Department had the authority to trim waste from programs and that HB 3091 contradicts the philosophy of the community corrections programs. Mr. Werholtz said that although an issue could be made of breaking faith with existing counties, an issue of faith could also be made in providing funding for new counties coming on line. He said that he and Secretary Davies agreed that all 105 counties should be treated as fairly as possible rather than allowing expansion of programs in the 16 original counties, but no new programs would be started until sufficient money was available.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS,

room 123-S, Statehouse, at 11:10 a.m./~~PM~~ on APRIL 30, 1990

In answer to a question from Senator Gaines, Mr. Werholtz said there is a great disparity in the intensive supervision counties between supervisor to field personnel ratio. He said that the Department, however, cannot require efficiencies except when additional funds are requested.

Senator Rock stated that it was not the DOC that requested the floors during hearings on SB 49, but the counties that had the programs in place and wanted to protect them.

In answer to a question from Senator Johnston, Mr. Werholtz stated that he believed services could be expanded to new counties and the current level of services in existing counties could be continued if \$1.2-\$1.7 million in carryover money is available. Senator Johnston noted his desire that the Department have the authority to negotiate administrative and other ancillary costs, but not the authority to reduce existing services.

Senator Allen expressed concern over the possibility that new programs would be underfunded because of the waste in current programs.

Senator Parrish noted that the cost of some of the counties coming on line was fairly high, and observed that because the formula grant program was no longer used, there is less encouragement for small counties to group together to provide services. Mr. Werholtz said that one reason for the higher cost estimates of the programs is that they include a full range of services rather than only basic services. He noted that the most persuasive way of encouraging counties to join together in providing services is the amount of money appropriated to fund the programs.

It was Senator Rock's opinion that maintaining sophisticated and sometimes inefficient programs in some counties while providing no services in other counties is both unlawful and inequitable.

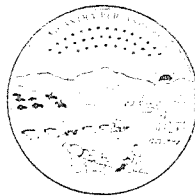
Mr. Joseph Ruskowitz distributed and reviewed Attachment 2. In answer to a question, he said that the house arrest program has cost \$225,000 to date, and that there are 6 persons in the program. Approximately 50% of the expense was for staff, and the other 50% was for equipment acquisition. He stated that Wyandotte County Community Corrections has 2 supervisors for 20 case managers who, in turn, have a caseload of 20. He noted that expansion in FY 89 accounts for high administrative costs, which have been lowered in FY 90 to 11%.

Senator Gaines pointed out that the change in one time administrative costs in Wyandotte County supports Mr. Werholtz' contention that the Secretary should have authority to redirect unexpended funds.

Mr. William Kennedy appeared in opposition to HB 3091 and reviewed Attachment 3. He suggested rolling back admission to the programs for 2-3 years in order to develop a more viable program. He said that because there is a process in existing statute for the Secretary to have a hearing, he believes the Secretary has the authority to police extravagant programs.

Mr. Mark Matese defended administrative costs of Douglas County Community Corrections, noting that they included utilities and start up costs.

The meeting was adjourned by the Chairman.



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

Landon State Office Building
900 S.W. Jackson—Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Mike Hayden
Governor

Steven J. Davies, Ph.D.
Secretary

TESTIMONY TO THE SENATE WAYS & MEANS COMMITTEE ON HB 3091
ROGER WERHOLTZ, DEPUTY SECRETARY OF CORRECTIONS
COMMUNITY AND FIELD SERVICES DIVISION
APRIL 28, 1990

We would like to take this opportunity to reemphasize one more time that the Kansas Department of Corrections supports the concept of community corrections and the contributions the ten existing programs have made to the criminal justice system in this state. Community corrections has undergone a variety of changes in its short history: elimination of the juvenile chargeback, elimination of the adult chargeback, conversion from a grant formula to funding based on historic costs, establishment of a funding floor for ten existing programs, and a mandate for statewide implementation to name a few. As we learn more about how to best operate these programs, these changes have been made.

Now the State of Kansas is faced with a budget crisis of the highest magnitude. At the same time that we are attempting to respond to the legislative mandate to implement community corrections statewide, we are challenged to accomplish this on an austere budget.

When I appeared before this committee during your consideration of the omnibus appropriations bill, I presented seven options or strategies for remaining within the Governor's budget recommendation for community corrections. Five of those strategies were developed by Kansas Department of Corrections staff and two were developed in cooperation with the directors of the ten existing programs. Each of those options was based on certain sets of assumptions including the option recommended by this committee and the full House. Those assumptions included retaining current operational standards, minimal growth in the size of existing intensive supervision and residential programs, and that (if necessary) changes in statutory language can be achieved to enable adjustments to program budgets below the FY 1989 expenditure levels.

SWAM
April 30, 1990
Attachment 1

After seeing the house appropriations committee report recommending Option 1, along with the Department's chief legal counsel, I met with Attorney General Stephan to ascertain if changes in statutory language were required. It was the Attorney General's informal conclusion that such language changes were necessary. It is from that history that HB 3091 arises.

The Department must choose between two questions of equity. Is it more equitable to fund similar services statewide as far as possible and treat all counties as equally as possible, or is it more equitable to reward the twelve counties who entered community corrections voluntarily prior to FY 1989 for their foresight by allowing them to retain programs other counties cannot have?

This has never been an issue before because community corrections programs have always been amply funded to the degree that money was left over every year. In FY 1991, there will be no leftovers. There will not be enough money to let everyone do everything they want.

Community corrections is always linked with its impact on prison and youth center populations. However, there are other activities carried out with community corrections funds that do not impact these populations. They were used as incentives to gain participation and support when the program was voluntary. While they are worthwhile programs, we question whether they should receive funding priority over other services just because they were there first.

Senate Bill 49 contains language which locks into place funding for all current programs and all their services. It does not allow the Department to establish focus on offender populations nor can we require program efficiencies where opportunities for them exist. The Department will be able to take such action with new programs but not old ones. There will be two sets of rules and two kinds of programs, those with a full range of services and those with very restricted services.

Every discussion of community corrections usually references the unique partnership between state and local government. In fair fiscal weather, that has seen local programs grow and flourish. Now we are facing hard times that can truly test the commitment of both partners to that partnership. It is important to focus on what is best for all of Kansas and how that can best be accomplished.

I told the committee I was confident that most, if not all of the existing programs' services, could be retained within the Governor's recommendation while still bringing the rest of the state on line. I believe that is still true. I believe we could do even better statewide if we could redirect funds if necessary.

As long as the state's financial picture remains cloudy, this question will continue to arise.

The restrictions imposed by SB 49 were put in place partially as a reaction to the perception that the previous administration was hostile to community corrections and would try to do it in. The history of the Kansas Department of Corrections through five secretaries from both parties has been continual support, but this secretary has his hands tied as no other. He has to face budget problems not experienced for several years. He recognizes the value of community corrections and has repeatedly expressed his support. Community corrections is a resilient concept and will be here long after we are gone. It is not threatened by the budget crisis or this administration, but it must share in the effort to resolve the state's financial problems.

It would be our preference to fund all community corrections programs statewide at the level currently enjoyed by the existing programs. That is why we requested in excess of \$15,000,000 for that purpose in our C level budget. Due to the fact that all state agencies are being asked to do more with less, to contribute to the solution of the budget crisis, every effort must be made to control expenditures. For this reason, we would urge you to adopt HB 3091 as a means to give this Secretary of Corrections the same tools enjoyed by his predecessors as he attempts to manage his agency.

1-4

TOTAL COMMUNITY CORRECTIONS EXPENDITURES BY PROGRAM TYPE

COUNTY	PROGRAM CATEGORY									
	ADMIN COSTS	ADULT I.S.P.	ADULT RESIDENTIAL	ADULT DIVERSION	JUVENILE I.S.P.	JUVENILE RESID.	JUVENILE DIVERSION	VICTIM WITNESS	PRE-SENT. EVALUATION	TOTAL COST
BOURBON/LINN/MIAMI	63,569.03	90,616.17	8,126.55					38,252.45		200,564.20
DOUGLAS	176,016.22	92,476.18			37,135.90					305,628.30
JOHNSON	96,620.44	651,062.11	242,788.93			89,608.57				1,080,080.05
LEAVENWORTH	61,687.08	104,926.44		25,223.70	54,676.28			18,016.35		264,529.85
MONTGOMERY	84,066.26	150,600.55			27,076.68			33,255.23		294,998.72
RILEY	63,182.06	69,607.91		15,017.99	40,277.12			31,223.75		219,508.83
SALINE	107,693.14	93,210.65		7,394.36	26,738.83		5,138.53	22,307.23		262,482.74
SEDGWICK	230,357.80	1,288,581.11	512,305.92		6,664.16			111.50	56,009.55	2,094,030.04
SHAWNEE	151,236.21	243,050.56	570,659.34		31,620.06				12,887.95	1,009,454.12
WYANDOTTE	338,991.19	542,143.44							168,515.56	1,049,650.19
TOTAL	1,373,419.43	3,326,475.12	1,333,880.74	47,636.05	224,189.03	89,608.57	5,138.53	143,166.51	237,413.06	6,730,927.04

KDOC Programs Division
Community Corrections Section Recommended
Local Program Budget and Program Priority
For Funding Consideration

Program Priorities

1. Adult Intensive Supervision (pre and post incarceration)
 - a. Substance Abuse Testing
 - b. Community Service Supervision and Costs
 2. Adult Residential Services (Work Release) (pre and post incarceration)
 - a. Substance Abuse Testing
 3. Pre-Sentence/Evaluation Services
 - a. Substance Abuse Program Services
 - b. Surveillance Services
 4. Electronic Monitoring/House Arrest (if it expands population diverted from prison)
 5. Juvenile ISP
 6. Juvenile Residential
 7. Victim Witness
 8. Prevention Programs
 9. Juvenile Diversion
 10. Adult Diversion
 11. Indirect Costs (indirect Costs Charged By County Government For Bookkeeping/Auditing/Payroll/Personnel/Etc. will always be lowest priority)
- * Note: All of the above programs may choose to support or provide the program with contractual services.

April 28, 1990

Testimony before the Senate Ways & Means Committee Opposing HB 3091

by

Joseph A. Ruskowitz, Director, Wyandotte County Community Corrections

The supplemental note brief on HB 3091 states the following:

"HB 3091 authorizes the Secretary of Corrections to direct counties to discontinue certain community correction services and, subsequently, to reduce community corrections grant awards whenever those services are discontinued."

If this brief accurately describes the intent of this legislation, why do we need HB 3091?

The existing statutes provide the Secretary with the authority to approve, disapprove, or make recommendations to modify grants submitted by counties.

During the grant application process, the Secretary may disapprove certain community corrections services and, subsequently, reduce the amount of the community corrections grant request.

The supplemental note brief further states:

"The House Committee amendment provides that if a county continues to offer a service directed to be discontinued, the county will be responsible for the costs of the service and the state will not share in such costs."

If the Secretary directs that services be discontinued, we can assume they will be discontinued. The county budget is experiencing the same difficulties you are experiencing with the state budget. If the expectation of this bill is to transfer expenses of community corrections programs to the local units of government, it will not succeed.

The supplemental note background information states:

"A representative of the Department of Corrections testified in support of the bill as a tool to provide additional flexibility in administering the Community Corrections Act."

I submit that the legislation goes far beyond the scope of providing a tool for additional flexibility in administering the Community Corrections Act. It provides the Secretary with unspecified discretionary authority. The bill lacks definition. What are "certain community corrections services?" When will the Secretary direct counties to discontinue a correctional service? As far as I can determine, it can be any minute of the day, any day of the month, or any

SWAM
April 30, 1990
Attachment 2

month of the year. If enacted, this bill provides a tremendous amount of uncertainty for the county programs.

I would like to refer back to lines 40 through 43 of the bill, "no grant for a county or group of counties which received a grant for fiscal year 1989 shall be less than the amount of the grant funds expended by the county or group of counties during fiscal year 1989."

If this bill is enacted, it will significantly change the amount of the base year grant amount for existing programs. Because of funding limitations, if we were required in FY1991 to reduce our budget to what we actually expended in FY1989, it would virtually "break the backbone" of community corrections in Wyandotte County. Be aware that if reductions below the FY1989 base year are required, employees would have to be laid off, drug testing would be eliminated, and services provided to offenders who abuse or are addicted to drugs will be discontinued.

Line 33 on page two of the Bill allows counties entering the program for the first time to establish the amount of their base year to the amount of the grant received during the first year of operation. The Bill creates a disparity in the base year amount between existing and new counties. Consistency needs to be maintained.

In closing, in addition to the issues I raise, I would like to summarize some of the fears and concerns that have been expressed as a result of the introduction of HB3091.

1. Attempt to strip local counties of their responsibility and authority for deciding what their local correctional needs are and how best they should be met.
2. Mechanism to fund the mandated community corrections expansion at the expense of the existing program.
3. Unspecified discretionary authority creates a fear that programs will be started and funding subsequently withdrawn.
4. That the legislature reneged on its commitment to stabilize funding for community corrections by establishing the grant received in FY1989 as a base year.
5. It eliminates the county process to appeal decisions of the Secretary.
6. Provides a demise for employee morale.
7. Takes away all incentives for community involvement.

HB3091 is not good public policy, and I encourage you to not enact this legislation in its present form. If this Bill were not passed, the Secretary has an abundance of authority in existing legislation and rules and regulations to administer the Community Corrections Act.

If you see the need to pass this legislation, the following amendments should be considered:

1. More specific direction as to what services the Secretary may direct to be discontinued, and how and when it may happen.
2. The funding base for existing programs reestablished as the amount of the grant received in FY1989.
3. Provision for due process for appeals of the Secretary's decisions.

I will be glad to answer any questions to the best of my ability.



GABRIELLE M. THOMPSON
SUE L. LAKE
BREN ABBOTT
Assistant Riley County Attorneys

Office of the Riley County Attorney

WILLIAM E. KENNEDY III
Riley County Attorney

Carnegie Building
105 Courthouse Plaza
Manhattan, Kansas 66502
(913) 537-6390



GENIECE A. WRIGHT
Legal Specialist

Testimony Presented to Senate Committee Concerning House Bill 3091

Presenter:

William E. Kennedy III
Riley County Attorney

Community Corrections came to Kansas in 1978. (K.S.A. 75-5290). Its purpose was to decentralize corrections allowing volunteering counties to opt in and provide a myriad of correctional services including restitution programs, victim services, preventative or diversionary correctional programs, community corrections centers, confinement facilities and various juvenile services. (K.S.A. 75-5291). Each county project is overseen by county commissioners. The Secretary of Corrections is required to assist counties and corrections advisory boards. (K.S.A. 75-5294). Local organizations are required to promulgate an annual plan which the Secretary of Corrections is to review and compare with policy for approval. (K.S.A. 75-5296). The advisory board is designed to draw from a broad base of community members, (K.S.A. 75-5297) and actively participates in annual plan formulation. (K.S.A. 75-5299).

In 1989, community corrections was made mandatory throughout the state. (K.S.A. 75-52,110). Due process for the corrections department and the counties was provided by K.S.A. 75-52,114.

A statutory program status quo statute was introduced in 1989. (K.S.A. 75-52,111). This statute allowed existing programs to continue, assuming constant enrollment.

All this community participation, work, and planning could be destroyed if the amendment to K.S.A. 75-52,111 (House Bill 3091) is allowed to pass.

IT WOULD BE FAR BETTER TO BRING ON THE NEW BOARDS WITH A LIMITED STATUS SIMILAR TO HB 3091 FOR TWO YEARS AND THEN SEE WHETHER ANY FINANCIAL SAVINGS IS SHOWN IN THE PRISON SYSTEM. IF THE PLAN WORKS, THERE WILL BE A SAVINGS AND ALLOW THE EXISTING PROGRAMS TO CONTINUE. THE SECRETARY OF CORRECTIONS CAN ALREADY ATTACK WASTEFUL PROGRAMS THROUGH K.S.A. 75-52,111.

SWAM
April 30, 1990
Attachment 3

If this bill passes, it is unrealistic to expect counties to pick up victim witness programs, diversion programs and the balance of the destroyed local program as local budgets are already established.

Passage of this bill is contrary to the victim's bill of rights.

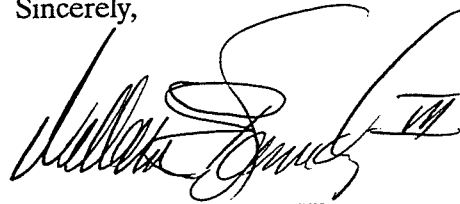
Passage of this bill is contrary to the community concept.

Passage of this bill is contrary to the bill being revised. (K.S.A. 75-52,111)

Passage of this bill so weakens the fiber of the already existing programs that I believe it would be wiser to close down community corrections and direct the court to assume that role. I believe an advisory group to a local court would be more effective than a completely puppet group to the Secretary of Corrections.

At any rate, a study should be instituted concerning a joining of forces of parole, court services and community corrections.

Sincerely,

A handwritten signature in black ink, appearing to read "William E. Kennedy III". The signature is fluid and cursive, with a large initial "W" and "E".

William E. Kennedy III
Riley County Attorney