

Approved

Date

3/31/92

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative John Solbach at
Chairperson

3:30 a.m./p.m. on March 17, 1992 in room 313-S of the Capitol.

All members were present except:

Representative Allen and Heinemann who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research
Jill Wolters, Revisor of Statutes
Judy Goeden, Committee Secretary

Conferees appearing before the committee:

Ben Coates, Kansas Sentencing Commission
Paul Shelby, Judicial Administration
Gary Stotts, Secretary, Department of Corrections
Joyce Lile, Kansas City, Missouri
Janet Hern, Oklahoma City, Oklahoma
Kyle Hooks, Hutchinson, KS

The Chairman called the meeting to order.

Hearings were opened on:

HB 3120, grant payments to community corrections programs
HB 3121, increase fees for probation & community corrections
HB 3141, costs in criminal cases assessed to defendant
HB 3142, developing a field service officers training program
HB 3143, developing a uniform database of offender information
HB 3144, field service agencies

Ben Coates, Kansas Sentencing Commission, testified in favor of all above listed bills and answered committee members questions. (Attachments #1, #2, #3, #4, #5, & #6) He said he thought HB 3143 and HB 3144 should be acted on this session, and the remainder of the bills should be referred to an interim committee for study.

Representative Douville moved to recommend HB 3120 favorably for passage. Representative Everhart seconded the motion. Motion carried.

Paul Shelby, Judicial Administration, testified on HB 3121, HB 3141, HB 3143 and HB 3144. (Attachments #7, #8, #9, #10 and #11) He felt generally that the bills being referred to an interim committee for study would be beneficial.

Gary Stotts, Secretary, Department of Corrections, felt the above listed bills should be referred to an interim committee. He felt there must be a coordinating council for criminal justice. He said he thought HB 3143 would flounder if it were passed this session.

Hearings on HB 3121, HB 3141, HB 3142, HB 3143 and HB 3144 were closed.

Jerry Donaldson will draft a letter requesting an interim study for the above listed bills.

Hearing on SB 479, sentencing guidelines, was opened.

Joyce Lile, Kansas City, Mo., testified in support of SB 479 although she favored retroactivity being put back in the bill. (Attachment #12) She testified that her husband is serving a life sentence. She answered members questions.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,

room 313-S, Statehouse, at 3:30 a.m./p.m. on March 17, 1992.

Janet Hern, Oklahoma City, Oklahoma, testified her husband was in prison for something he did not do, and the retroactivity put back into SB 479 would help her husband.

Kyle Hooks, Hutchinson, KS, testified her husband was in prison and had been passed over for parole twice by the Parole Board. She testified in favor of putting retroactivity back into the bill. She answered questions from committee members.

Meeting adjourned at 5:10 P.M.

HB - 3120

An act concerning community corrections; relating to county grants.

This bill would alter the frequency of grant payments to community corrections programs. Currently, those programs receive quarterly grant payments. This bill would change the community corrections act to provide for two payments annually, versus the current four payments.

The task force heard testimony that the current method of distributing quarterly grant payments results in some needed, necessary, and approved purchases being delayed until the end of the fiscal year - when sufficient funding has accrued to proceed with those purchases.

The proposed change would allow counties to proceed with necessary purchases earlier in their grant year.

For more information contact:

Kansas Sentencing Commission
(913) 296-0923

Ben Coates, Director
Blaine Carter, Management Analyst

HJC
3-17-91
Attach #1

HB - 3121

An act concerning criminal procedure; relating to authorized dispositions.

This bill would 1) change the method of placement of offenders to Community Corrections from "assignment" to "direct placement"; 2) allow in felony cases, the ability of the court to order not more than 60 days county jail confinement as a condition of probation or "community corrections placement"; 3) provide for a yearly \$30 misdemeanor probation fee and a yearly \$60 felony probation fee; and 4) change the period of probation to five years in B felony cases and three years in C,D,E and unclassified felony cases. Probation periods would not apply to any crime or attempted crime set out in article 35 of chapter 21 of K.S.A.

Currently, there is a lack of uniformity across the state as to initial placement of offenders in Community Corrections programs. Frequently, Community Corrections is overlooked as a sentencing alternative for institution-bound offenders. In many districts, Community Corrections is used as a program of Court Services. The true purpose of Community Corrections has been ignored and has resulted in clients being placed under Court Services supervision rather than under Community Corrections supervision, and vice versa. To alleviate this problem, the Task Force felt that direct placement to Community Corrections programs would bring about better client supervision and rehabilitative treatment, reduce confusion, and abolish double counting of cases. Most of the confusion on placement to Community Corrections supervision stems from the statutes pertaining to probation assignment.

If direct placement to community corrections is attained, it is necessary to allow the court the ability to order 60 days county jail confinement for community corrections placement as well as a condition of probation.

Kansas has one of the lowest client supervision fees in the nation. Task Force members felt that misdemeanor fees should increase from a \$25 one-time fee to a \$30 yearly fee. They felt that in felony cases fees should increase from a \$50 one-time fee to a \$60 yearly fee.

The Task Force recommends a standard probation term. Terms differ significantly across the state. Setting standard terms will promote uniformity among judicial districts. The Task Force proposes not more than five years for a class B felony case and not more than three years in class C,D,E and unclassified felony cases. These terms shall not apply to any crime or attempted crime set out in article 35 of chapter 21 of K.S.A.

For more information contact:

Kansas Sentencing Commission
(913) 296-0923

Ben Coates, Director
Blaine Carter, Management Analyst

HJC
3-17-92
Attach #2

HB - 3141

An act concerning costs in criminal cases; relating to the payment of such costs.

This bill would establish a Criminal Costs and Restitution Trustee who would have the responsibility for collection of any amounts assessed by the court as fines, costs, fees, victim restitution or other amounts assessed by the court in criminal cases. Compensation will be made though a \$25 increase in court costs.

The Task Force discussed the problems experienced by field service officers in attempts made to collect the monies owed to victims and the court. Probation is often continued simply to collect these debts. The time spent on collections is inappropriately included as part of the duties of field service officers. The creation of the position of Criminal Costs and Restitution Trustee will provide a full time collector for these debts and will allow more time for Field Services Officers to address the rehabilitative needs of clients. The collection of restitution, fines, and other fees imposed by criminal court will become a civil matter, separate from the terms of probation. The statutory provisions for collection of child support is used as a guide in drafting this bill pertaining to collections in criminal proceedings. A Criminal Cost and Restitution Trustee would eliminate the need for the statute dealing with indefinite probation for criminal non-support cases. Collection of funds may include garnishment of lottery winnings, workers compensation, unemployment wages, and state income tax returns.

For more information contact:

Kansas Sentencing Commission
(913) 296-0923

Ben Coates, Director
Blaine Carter, Management Analyst

HJC
3-19-92
Attach #3

HB - 3142

An act concerning criminal procedure; developing a field service officers training program.

This bill would require the Department of Corrections, Office of Judicial Administration and Community Corrections programs to establish a program of training for full-time field service officers. Training for field service officers (Court Services, Community Corrections and Parole) will be coordinated through the Department of Corrections, Division of Community and Field Services Management. All new officers hired shall complete a preservice training course of not less than 40 hours of instruction. All officers shall complete annually not less than 40 hours of education or training in subjects relating directly to field service work.

Presently, there is no consistency in field services officer training. A majority of field services officer are trained on the job. In comparison to other categories of professionals employed in the Kansas criminal justice system, field services staff training has been neglected. The Task Force determined that a state field services training program is necessary to elevate professionalism and encourage uniformity of services.

For more information contact:

Kansas Sentencing Commission
(913) 296-0923

Ben Coates, Director
Blaine Carter, Management Analyst

HJC
3-17-92
Attach #4
103

**Staff Assignments by Agency by Type of Job for Persons Employed
May 1991**

| | <u>Supervisor/ Administrative</u> | <u>Line Staff</u> | <u>Clerical</u> | <u>Total</u> |
|-----------------------|---------------------------------------|-------------------|-----------------|--------------|
| Court Services | 76.5 | 262.5 | 73.0 | 412.0 |
| Community Corrections | 51.25 | 167.75 | 38.0 | 257.0 |
| Parole | 19.0* | 64.0 | 16.5 | 99.5 |
| Total | 146.75 | 494.25 | 127.5 | 768.5 |
| Percentage of total | 19% | 64% | 17% | 100% |

*This figure includes central office having five non-supervisory positions.

HJC
3-17-92
#Hach #4
2003

**Authorized Positions Compared to Filled Positions
May 1991**

| <u>Agency</u> | <u>Authorized Positions</u> | <u>Filled Positions</u> | <u>Positions Vacant</u> |
|-----------------------|---------------------------------|-----------------------------|-----------------------------|
| Court Services | 432.5 | 412.0 | 20.5 |
| Community Corrections | 283.0 | 257.0 | 26.0 |
| Parole | 101.0 | 99.5 | 1.5 |
| Total | 816.5 | 768.5 | 48.0 |

HJC
3-17-92
Attach #4
3083

HB - 3143

An act concerning criminal procedure; relating to the development of a uniform database of offender information.

This bill would require all Kansas field services agencies (Community Corrections, Court Services and Parole) to develop a common, uniform database of offender information for each offender placed in a nonincarcerative sanction.

The Task Force's data collection effort highlighted the fact that uniform data does not exist. This lack of standard data makes efficient planning and resource allocation difficult, if not impossible. Approximately 29 million dollars are allocated from a variety of sources without any firm idea of caseload, workload, or services needed statewide for over 27,000 offenders (over 32,000 with children in need of care and diversion clients).

For more information contact:

Kansas Sentencing Commission
(913) 296-0923

Ben Coates, Director
Blaine Carter, Management Analyst

HJC
3-17-92
Attach #5
183

**Individuals Supervised by Type of Agency
May 31, 1991**

| | <u>Court Services</u> | <u>Community Corrections</u> | <u>Parole</u> | <u>Total</u> |
|------------------------|---------------------------|----------------------------------|---------------|---------------|
| Adult Felons | 6,481 | 2,185 | 5,499 | 14,165 |
| Adult Misdemeanants | 8,803 | 157 | 0 | 8,960 |
| Juvenile Felons | 1,587 | 49 | 0 | 1,636 |
| Juvenile Misdemeanants | 2,870 | 98 | 0 | 2,968 |
| CINC | 2,783 | 0 | 0 | 2,783 |
| Domestic Cases | 146 | 0 | 0 | 146 |
| Adult Diversions | 524 | 460 | 0 | 984 |
| Juvenile Diversions | <u>758</u> | <u>59</u> | <u>0</u> | <u>817</u> |
| Total | 23,952 | 3,008 | 5,499 | 32,459 |

This summary highlights the overlap of Court Services and Social and Rehabilitative Services in the juvenile offender and CINC areas. Court Services provide domestic services in some judicial districts.

HJC
3-17-92
Attach #5
2083

HOUSE BILL No. 3143

By Committee on Judiciary

2-26

8 AN ACT concerning criminal procedure; relating to the development
9 of a uniform database of offender information.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. The judicial administrator of the courts shall confer
13 and consult with the secretary of corrections in order to develop a
14 common, uniform database of offender information by July 1, 1993.
15 After July 1, 1993, the data collected by the courts, community
16 corrections programs and parole programs shall adhere to the re-
17 quirements of this new database. Data shall be collected on each
18 offender placed in a nonincarcerative sanction. This information shall
19 be stored in the Kansas bureau of investigation's central repository.
20 All field service officers shall have access to data contained in the
21 ~~Kansas bureau of investigation's central repository.~~

22 Sec. 2. This act shall take effect and be in force from and after
23 its publication in the statute book.

uniform database of offender
information.

HJC
3-17-92
Attach #5
303

HB - 3144

An act concerning criminal procedure; relating to field service agencies.

This bill would require staffing conferences between field service agencies in order to achieve single supervision and eliminate duplication. Staffing conferences shall be held at various stages of the decision making process to provide the courts and parole board with a comprehensive individual supervision plan based upon objective classification criteria and logistical considerations. Staffing conferences will obtain maximum use of programs and resources available to support the client's rehabilitation and meet the orders of the court and parole board.

The issue of single supervision is the paramount dilemma facing the current system of field services. Data gathered on the current system indicated a significant amount of duplication of efforts in supervising offenders. In addition, offenders typically are provided services depending upon how and where they enter the system. By holding joint staffing conferences at the decision making stages, duplication in supervision, services, and case reporting will be eliminated. Joint staffing conferences will ensure that agencies receive appropriate clients for their programs.

For more information contact:

Kansas Sentencing Commission
(913) 296-0923

Ben Coates, Director
Blaine Carter, Management Analyst

HJC
3-17-92
Attach #6
1 of 3

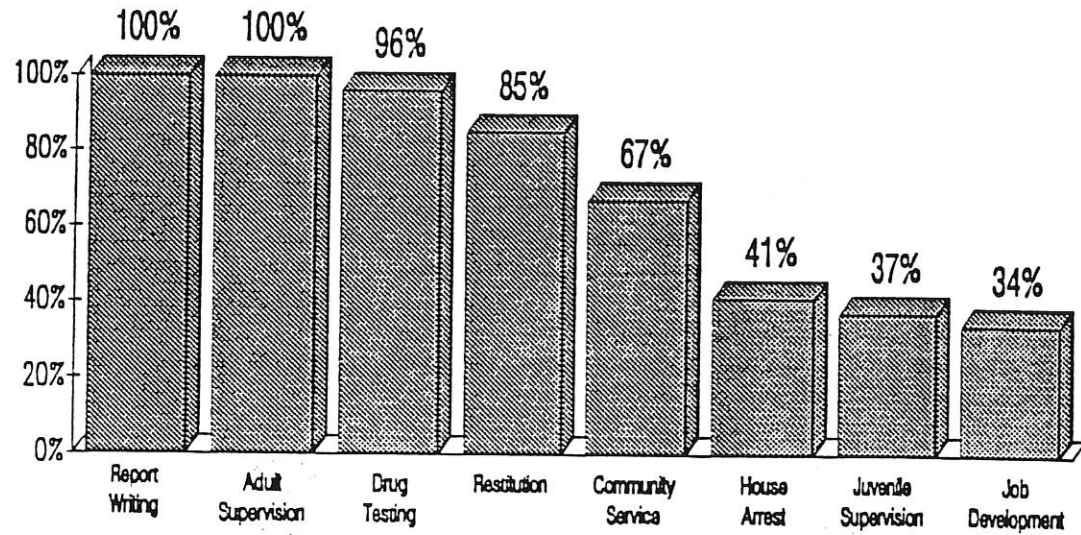
**Number of Individuals* Supervised by More Than One Office or Agency
May 1991**

| | |
|--|-----------|
| More than one Judicial District | 518 |
| More than one Community Corrections Agency | 43 |
| Court Services and Community Corrections | 559 |
| Court Services and Department of Corrections | 900 |
| Community Corrections and Department of Corrections | 181 |
| All three Agencies | <u>46</u> |
| Total | 2,247 |

*Includes juvenile and adult felons and misdemeanants, does not include diversions, CINCS, or domestics

HJC
3-17-92
Attach #6
2063

Services Provided by More Than One Agency Within a Judicial District
by Percent of Judicial Districts
May 1991



HJC
3-17-92
Attach #6
3083

House Bill No. 3121
House Judiciary Committee
March 17, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee:

I thank you for the opportunity to discuss with you House Bill No. 3121. This bill has two major components. One amends criminal procedure so that the length of time that a person placed under supervision of a court services officer or a community corrections supervisor is related to the severity of the crime for most criminal activities and in a less graduated manner for sex crimes (section 3, page 5). This bill permits these periods of probation or direct placement with community corrections to be extended one time for a like period.

The second changes the probation fee. The present single probation or community corrections fee of \$50 for a felony and \$25 for a misdemeanor is raised to \$60 for each year that a convicted felon is sentenced to probation (or placement with community corrections) and \$30 for each year that a misdemeanant is sentenced to probation (or placement). Total fees are to be determined at the time of sentencing based on the term of supervision. If the term of supervision is extended, the criminal is to be assessed the \$60 or \$30 fee for each year of extension. Fees are not to be reduced due to early termination of supervision.

This "user" fee system will pose severe accounting problems for the court system. At any one time about 25% of the persons under supervision are unable to make payments because of indigency. If the persons have been supplied appointed counsel paid for by state or local governments, K.S.A 22-4513 permits the criminal to petition the court for relief from manifest hardship on the criminal or the criminal's immediate family. Normally relief from paying appointed attorney's fees is not enough, so that the entire payment schedule (restitution, probation or community service fee, court costs, and fines) is either set aside for an indefinite period or stretched out for a prolonged period.

Either circumstance will contribute to an intolerable increase in accounting workload; it seems likely that the number of persons being sentenced to supervision will increase due to the adoption of sentencing guidelines; 414 additional cases in FY '93 have been projected by the Sentencing Commission so that new case entry for adults will be about 12,000. Twenty-five percent of these or 3,000 adult cases a year will bring with them requirements for prolonged accounting.

HJC
3-17-92
Attach #9
102

We do not have a problem with the time limits on probation, but feel the proposed probation fee change is not related to these limits and create accounting problems for the district courts. We would suggest just raising the current probation fees if the intent is to raise additional revenues.

Thank you for the opportunity to testify on HB 3121.

HJC
3-17-92
Attach #7
2062

House Bill No. 3141
House Judiciary Committee
March 17, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee:

I thank you for the opportunity to discuss with you House Bill No. 3141, which at first reading, seems to be a solution to the severe accounting problem which would be engendered by passage of House Bill 3121. This bill's announced purpose is to enhance the collection of fines, costs, fees, victim restitution, and other amounts assessed by the court in criminal cases.

This bill not only applies to cases which normally come to mind as criminal cases, but also to traffic infraction cases (see lines 29 through 31, section 3, page 1). Adding \$25 per case to uncollected costs and fines in these cases will surely cause a large number of motorists to complain, and loudly.

However, this bill is unworkable in major metropolitan areas. It permits courts to establish a criminal costs and restitution trustee for the court and to fill the position with an attorney, if one can be found who is willing to work for the \$25 per case to be added to the total the criminal owes to crime victims and the state. Here in Topeka, collection attorneys habitually work for a contingent fee of 40 percent of the amount collected. Appointed defense counsel and guardians *ad litem* are paid \$50 per hour.

It is doubtful that there would an attorney in an urban area who would be willing to pursue civil remedies persistently for \$25 per case. It follows that in the very areas where most of the criminals with unpaid costs, fees, fines, and the like are to be found there would be no criminal costs and restitution trustee. It seems apparent that unless you are willing to forgo 40 percent of the amount due victims and the state, and to pay the trustee's fee over to the trustee as amounts are collected, this bill will not work.

Thank you for the opportunity to testify on this bill.

HJC
3-17-92
Attach #8

House Bill No. 3142
House Judiciary Committee
March 17, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee:

I thank you for the opportunity to discuss with you House Bill No. 3142, which concerns developing a field service officers training program. The department of corrections division of community and field services management is directed to consult with our office and community correction programs to establish a program of training for full-time field service officers.

We are encouraged by the concept of enhanced training for some of our personnel, but are concerned about a couple of aspects of this bill. One, of course, is funding. There is no provision in this bill for funding the expenses of the participants nor the actual training costs. Our estimate of travel costs for our current complement of CSO's to attend the training is approximately \$130,000. While much of the training that we have been offering in the past has been paid for from county operating budgets, this is quite a lot more than is currently being funded. In addition, many county budgets have been so tight, that even our current offerings are not being attended by all of our employees.

By the terms of the bill, once there has been consultation, approval of both preservice and continuing education training programs is the responsibility of the department of corrections. The bill broadly defines field service officers to include court services officers without qualification. This would include, therefore, all 325 full time equivalent court services officers working for the Judicial Branch whether they actually perform duties supervising adult criminals or not.

Given the complete authority of the department of corrections over the programs it seems likely that the Judicial Branch will incur additional training expenses above and beyond the programs envisioned here. To restate that observation, we will have to finance attendance at a forty hour course of field service training for all our court service officers, but for some of these officers the training will not be helpful. The training definitely would be in the "nice to know what the other guys are doing category" but not necessarily essential to the court service officers field of work. Some of our officers supervise juveniles, provide services for children in need of care, investigate domestic situations, or attempt to reconcile domestic partners. It seems likely, then, that additional training will still be necessary for these responsibilities.

HJC
3-17-92
Attach #9
1062

While we support training as a necessary component to an effective and efficient court system, we doubt that the training programs set out here will satisfy all the needs of the court system and we are concerned that adequate funding may not be available.

The second concern is the responsibility of the Secretary of Corrections to approve the training.

Thank you for permitting me to make these observations.

HJC
3-17-92
Attach # 9
2032

House Bill No. 3143
House Judiciary Committee
March 17, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee:

I thank you for the opportunity to discuss with you House Bill No. 3143, which directs the judicial administrator of the courts to confer and consult with the secretary of corrections in order to develop a common, uniform database of offender information. After the database has been developed it is to be the foundation of data gathered by the courts, community corrections programs and parole programs on each person sentenced to a nonincarcerative sanction. The information is to be stored in the Kansas bureau of investigation's central repository and all field service officers are to have access to the data.

This is not the first attempt to gather information to be shared among interested governmental agencies. K.S.A. 22-4701, *et seq.*, gives the mission of collecting criminal history data to the Kansas bureau of investigation. This agency presumably has an interest in the database directed by this bill, but the bill awards no role to the KBI in database development.

K.S.A. 38-1519, *et seq.*, and K.S.A. 38-1617, *et seq.*, similarly prescribe data collection systems for children in need of care and juvenile offenders. The court system has collected the data required by all three systems since the statutes were enacted. Data forms are filled out manually and are submitted regularly to the data processing arm of the Kansas bureau of investigation.

However, only a few of the data on the forms have ever been entered into the data processing facilities of the bureau; and since June 1991, no data have been entered on the two child-oriented systems, nor has processed information been received from the bureau. You should note the bill specifies that field service officers shall have access to the system but the form of access is not spelled out. We believe that for meaningful access, there should be central decision-making authority granted so that computers in use throughout the state will be compatible with the data processing equipment and software used by the central repository. This bill does not provide that guidance.

We fear that this new requirement will only duplicate systems now in effect. Until the KBI has funds, equipment, and trained programmers which will permit them to process the data they receive from the court system, promulgation of a duplicative second database will simply be a meaningless waste of time and effort.

Thank you for permitting me to give you these pertinent facts about this bill.

HJC
3-17-92
Attach #10

House Bill No. 3144
House Judiciary Committee
March 17, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the committee:

I thank you for the opportunity to discuss with you House Bill No. 3144, which directs individual supervision plans for criminals sentenced to probation or placement in community correction programs. The bill specifies that there be a single field service agency to supervise and manage each criminal. There are provisions for determining placement of a particular criminal and formulating a plan which will best ensure that the conditions of probation or parole are met.

This appears to be an effort to eliminate duplication of supervisory requirements. The elimination of this duplication should make the supervision more efficient, but the requirements imposed by this bill will substantially increase the staffing requirements. There are procedures enumerated to resolve differences of opinion on placement of a given criminal. According to chart 17 of the Kansas Sentencing Commission's task force on consolidation report to the Legislature there will be 25,186 adults requiring supervision in 1993, all of whom are candidates for the staffing conference set out at section 1, page 2 of this bill.

Our data submitted to the Division of Budget is based on an assumption that staffing conferences will only be required before sentencing, yet a considerable amount of money and effort would be necessary to meet the conditions set out in this bill. Among the most critical needs imposed on our office by this bill is the requirement to develop objective classification criteria with the secretary of corrections, presumably to winnow out the criminals suitable for supervision, and the level of it, before sentencing and conditions of supervision both for probation and parole. We really should not be forced into such negotiations without a staff expert to represent our office.

While the concept of single supervision and its improved efficiency, and probably effectiveness, is good, we believe substantial staff will need to be added before this bill could be implemented.

Thank you for your attention. I am pleased to have been able to testify on these field service consolidation matters.

HJC
3-17-92
Attach #11
1 of 3



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612-1507

(913) 296-2256

March 5, 1992

To: Gloria M. Timmer, Director of the Budget
From: Jerry Sloan, Budget and Fiscal Office
Re: House Bill No. 3144

This bill deals with the organization and coordination of field services. The purpose of the bill is make the most efficient use of available resources to achieve the most effective level of services. Each convicted criminal should be supervised by a single agency to avoid duplicating services.

Staffing conferences will be conducted as outlined in the bill to develop supervision plans that achieve optimal supervision and maximize the use of programs and resources available to support a convicted criminal's rehabilitation and meet court and parole board orders. The bill also provides guidelines for transfer of probationers between judicial districts. Unaccepted transfers between court services and community corrections will be scheduled for court hearing and administrative judges have authority to refuse transfer of a client to local jurisdiction. The secretary of corrections has the authority to refuse transfer of a client to the department of corrections.

The state's recent revenue position required the Judicial Branch to cut back personnel authorizations in all segments of the Judicial Branch. Court Services Officers who would be eligible to become field service officers were reduced to 325.0 FTE positions from 351.5. Restoration of these positions is imperative before field service officers can be designated from among the 351.5 FTE. Restoration of the Court Service Specialist from the Office of Judicial Administration at an annual salary of \$41,000 and an Administrative Assistant at an annual salary of \$22,835 would also be required. This restoration would require an appropriation of \$822,181.

HJC
3-17-92
Attach # 3

Please note that lines 15 through 19 and 26 through 30, page 2, require a staffing conference to be held to determine placement of the criminal, conditions of the placement, and a supervision plan tailored to the individual that can best provide the level of supervision, programs and special services needed to encourage rehabilitation of the criminal and to meet court and parole board orders.

In FY 1991 there were about 11,550 adults who entered into court probation; according the Kansas Statistical Abstract, in FY 1990, about 3,500 were placed under supervision by the Secretary of Corrections; and we have previously estimated (see information on HB 2596) that about 2,700 adults are sentenced to community corrections; for a total of about 17,750 new entrants into the supervision system per year. In addition, there are a substantial number of persons already under a plan of supervision made by one of the three agencies named in this bill which may very well have to be reviewed in a staffing conference so as to achieve this bill's objectives.

Assuming new 17,750 new entrants and a staffing conference of 4.5 hours (including travel time in low density population areas; travel expense is a district court county operating fund expenditure) per entrant, there would be a need for experienced and exceptionally well-qualified persons (8 CSO IIIs and 32 CSO IIs) to represent the judicial branch in the staffing conferences. (Salary range 25, \$27,936 plus \$4,970 fringe; salary range 23, \$25,344 plus fringe \$4,665). An additional General Fund appropriation amount of \$1,223,536 is indicated. Altogether, \$2,045,717 would be required to implement this bill, if enacted.

JS:pd

HJC
3-17-92
Attach #11
383

Mr. Chairman and members of the Committee. My name is Joyce Lile and I am in support of Senate Bill 479. However, I feel that Senate Bill 479 would create a grave injustice if it is not made retroactive for both violent and non-violent crimes for the following reasons:

1. As stated in a January 21, 1992 article from the Kansas City Star, as stated by Representative Solbach, " ... if we don't do something to get a handle on the prison population we will be building a new El Dorado facility every 14-26 months at the rate of 80 million a pop." So, instead of making Senate Bill 479 retroactive, you are willing to spend more tax dollars to build and finance New Community Correction Facilities. If I am not mistaken I do believe that the State of Kansas was under a court order to decrease prison population. But instead of decreasing the population there will be more facilities to build to house lesser crimes while the Correctional Facilities all over Kansas are still very much over crowded. How is this Bill, the way it has been amended going to bring down the population behind the walls? You would probably be surprised at the open space that would and will be available to open Community Corrections without spending more money if the Senate Bill 479 is made retroactive. Minnesota, from whom we are taking the sentencing guidelines, have had good results. Also, the prison population has decreased and has remained decreased. What is wrong with Kansas doing the same thing?

2. As Representative Winters stated in an article from the Kansas City Star, " ... the current sentencing system is full of falsehoods and that the sentences given now seldom are more than 'the big lie'. The new determinate sentencing system would result in increased prison terms for persons with prior criminal histories who are convicted of violent crimes, sex crimes and drug crimes. So if the new sentencing guidelines result in increased prison terms for person with prior criminal histories wouldn't it be better to make it retroactive to effect those persons along with the people who do not have a prior criminal history so it would lessen their sentence, and let them go home a little sooner. If you went inside a prison and took a poll to see how may people are first time offenders, but got a severe sentencing I think you would be surprised...." I do agree that the present sentencing guidelines are a big lie! With the way they are now, when a person is convicted of a crime and is given his or her sentencing, what the worst nightmare is, is not knowing if you will ever go home to your family again. At least with the new sentencing guidelines you will know approximately when you will go home and it will give them an incentive for which to work. So, again, why not make it retroactive so the people incarcerated now will have hope and a life after all?

3. The main factor here today is the way Senate Bill 479 has been amended, not to be retroactive. If amendment is not removed you are looking at a discriminatory sentencing (meaning, a person already incarcerated is serving a severe sentence and a person entering the system with the same charge receives a lesser sentence). To make Senate Bill 479

HJC
3-17-92
Attach 12
1082

retroactive -- to release prisoners who have served a substantial amount of time does not mean that they are going to get out and commit a new crime. These people will be given an opportunity to become productive members of society.

Let's quit discriminating against each other. What's good for a crime committed before 1 July, 1993 is good enough for a crime committed after 1 July 1993. If the Bill is passed the way it has been amended you are saying that someone can commit the same crime that someone else did before the new sentencing guidelines and do less time; while the person who committed the crime before the new sentencing guidelines came into effect are doing a much more severe sentencing. To release inmates already incarcerated under the new sentencing guidelines would not cause widespread panic or a widespread outbreak of crime. Most of these men and women have already served over half of their sentence. Why not release the people that the sentencing guidelines will affect immediately so that there will be room for the people waiting in the county jails already.

In my closing statements I would like to say that if Senate Bill 479 is not made retroactive it will, and shall be, considered as a discriminatory measure against all persons already incarcerated. Make the law fair -- let it include the people already incarcerated. By making Senate Bill 479 retroactive you will be decreasing the prison population which has been a big problem, it will save the State of Kansas money because they won't have to build any more Correctional Facilities and everyone will be treated equally under the same sentencing guidelines.

HJC
3-17-92
Attack #12
2002