

Approved: 2-6-96

Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Michael R. O'Neal at 3:30 p.m. on January 24, 1996 in Room 313-S of the Capitol.

All members were present except:

Representative David Adkins - Excused
Representative Jill Grant - Excused
Representative Gary Merritt - Excused
Representative Candy Ruff - Excused
Representative Doug Spangler - Excused

Committee staff present: Jerry Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes
Cindy Wulfkuhle, Committee Secretary

Conferees appearing before the committee:

Attorney General Carla Stovall
Senator Tim Emert
Marilyn Scafe - Kansas Parole Board

Others attending: See attached list

Attorney General Carla Stovall appeared before the committee with several bill requests. The first would consider an adult juvenile in an SRS institution in the same legal status as an adult who escapes from a jail. The second would increase the penalties and extend the statute of limitations in the Deceptive Commercial Practice Act. The next would amend several provisions in the Protection for Abuse Act, and the last request would allow an officer who makes an arrest in a domestic violence case to seize weapons that have been allegedly used in the crime, (Attachment 1).

Representative Miller made a motion to have these bill requests introduced as committee bills. Representative Ott seconded the motion. The motion carried.

HB 2514 - Parole Board may hear testimony from victims in pardon cases was scheduled for a hearing but no conferees appeared to testify on the bill, and the bill was withdrawn from consideration.

Hearings on SB 329 - Creating a new Kansas Parole Board, were opened.

Senator Tim Emert, appeared before the committee, on behalf of Senator Tillotson, in support of the bill. He explained that the 1994 Legislative Post Audit Report on the Kansas Parole Board suggested the reduction in the size of board. The Report indicates that using staff for clerical matters would prove to be less costly. He also requested some technical changes to the bill dealing with dates, (Attachment 2).

Marilyn Scafe, Kansas Parole Board, appeared before the committee neither as a proponent or opponent of the bill. The Parole Board was concerned that there is no plan to phase out the present system and suggested that the phase-out should take five to ten years, (Attachment 3).

Hearings on SB 329 were closed.

Representative Miller made a motion to report the following bills adversely: HB 2357 - Best interest of child controls in determining grandparents/uncles/aunts role in caring for child pursuant to custody and guardianship, HB 2440 - Update law enforcement training statutes, HB 2464 - Criminal trespass to include entering or remaining on premises in defiance of a condition of an appearance bond and HB 2507 - Judicial positions and residency requirements. Representative Snowbarger seconded the motion. The motion carried.

Chairman O'Neal received a bill request from a Topeka attorney to amend K.S.A. 21-3816. This statute gives judges and judicial personnel protection from public demonstrating/picketing and general harassment of them. The attorney suggested that it be extended to include prosecutors and county & district attorney's. A motion was made to introduce this bill as a committee bill. The motion was seconded. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY, Room 313-S Statehouse, at 3:30 p.m. on January 24, 1996.

The Chairman also received a bill request that would make changes to the adoption laws. Representative Snowbarger made a motion to introduce this bill as a committee bill. Representative Pauls seconded the motion. The motion carried.

The committee meeting adjourned at 4:30 p.m. The next meeting is scheduled for January 25, 1996.



State of Kansas

Office of the Attorney General

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CARLA J. STOVALL
ATTORNEY GENERAL

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January 24, 1996

Representative Mike O'Neal, Chairman
House Judiciary
State Capitol
Topeka, KS 66612

RE: Request for Bill Requests

Dear Representative O'Neal and House Judiciary Members:

I would appreciate your consideration of the following bill requests in House Judiciary.

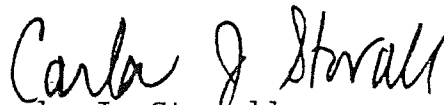
1. Escape from Custody - Amend K.S.A. 21-3809 and K.S.A. 21-3810 to place an adult juvenile in an SRS institution in the same legal status as the adult who escapes from a jail.
2. Deceptive Commercial Practice - Amend K.S.A. 21-4403 to change definitions, to increase the penalties available and to grant original jurisdiction to commend such criminal actions to the Attorney General in the deceptive commercial practice act. Also, amend K.S.A. 21-3106 to provide a five year statute of limitations for crime of deceptive commercial practices.
3. Protection for Abuse Act - Amend protection from abuse order to include violations of foreign protection orders, mandatory arrest for violation of PFA and petitioner be allowed to obtain order in jurisdiction where he/she may be sheltered. Also, amend K.S.A. 22-2307 & 22-2308 to include enforcement of foreign protection orders and to provide immunity for law enforcement officers when enforcing such orders. And, create a new crime of violation of protective order--when the court has ordered a person to have no contact with a person in regard to the following: protection from abuse orders, foreign protection orders, restraining orders, pre-trial release, probation, diversion, post-release supervision, suspended sentence, that person who violates such order shall be guilty of a class A person misdemeanor.

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4. Family Violence Model State Code Suggestions - A. Authority of law enforcement officer to seize weapons: When an officer makes an arrest in a domestic violence related crime, the officer (a) shall seize all weapons that are alleged to have been involved or threatened to be used in the commission of a crime. (b) may seize a weapon that is in the plain view of the officer or was discovered pursuant to a consensual search, as necessary for the protection of the officer or other persons. B. Written policies for all prosecutors: The city, county and district attorneys who prosecute violations of crimes that are domestic violence related, shall develop or adopt and put into effect written procedures for attorneys who prosecute crimes related to domestic violence concerning: (a) effective prosecution of such crimes; and (b) the protection and safety of victims and their children of domestic violence.

Thank you for your consideration.

Sincerely,



Carla J. Stovall
Attorney General

TIM EMERT

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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENT

CHAIRMAN: JUDICIARY

MEMBER: EDUCATION

ENERGY AND NATURAL
RESOURCES

TRANSPORTATION AND UTILITIES

Senate Bill No. 329

Testimony of Senator Tim Emert
January 24, 1996

Before the
House Judiciary Committee

Mr. Chairman, thank you for the opportunity to appear before you and your committee this afternoon as a proponent of SB 329. Also, I am appearing on behalf of Senator Carolyn Tillotson, who requested this bill last year through the Senate Judiciary Committee and had to be out of town this afternoon.

Senator Tillotson's bill request was the result of a Legislative Post Audit Report on the Kansas Parole Board published in December of 1994.

The Post Audit Report makes recommendations on page 17 that the legislature should consider reducing the size of the board as well as other suggestions regarding the management and operation of the board.

The recommendation of the Post Audit Report to reduce the size of the board is the result of the passage of sentencing guidelines, whereby the work of that board will be reduced; however, as we all know, there will continue to be a need for a board.

The report indicates that often times work is done by parole board members that could be more efficiently accomplished by staff persons rather than persons serving at the board level. Using staff for these nearly clerical type matters would of course prove to be less costly

During the drafting of this bill and its passage in the Senate, Senator Tillotson and I worked closely with Governor Graves' office. The Governor's staff, from the beginning, had considered making recommendations for changes in the manner in which the Kansas Parole

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Board operates and in the number of Board members. The Governor's office is supportive of this bill.

It appears that a reduction in the size of the parole board is in line with the policies set by Governor Graves to look at existing state government and see what stream lining and efficiencies might be accomplished.

Since the introduction of this bill and the issuance of the Performance Audit Report, we are aware of several revisions in operations that have taken place under the guidance of the new chairman of the parole board and feel that several of those concerns in the Post Audit Report have been or are being addressed. The number of parole board members, however, remains unchanged.

Senate Bill 329 in its present form would need to be amended to properly operate. The need for these changes come about because of the time which has elapsed since its drafting and the present time. The original bill allowed for reduction of the number of parole board members from five to three. No new members were to be appointed in 1995. Obviously, that time frame is past. An appropriate amendment would provide that no members are appointed to replace those persons whose terms expire during the calendar years of 1996 and 1997.

The parole board has provided me with a list of parole board members, their dates of expiration and their party affiliations as follows:

Parole Board Members		
<u>Name</u>	<u>Party</u>	<u>Expiration</u>
Sherman Parks	R	5-18-96
Chris Cowger	D	1-15-97
Marilyn Scafe	R	1-15-98
Leo Taylor	U	1-15-99
Bob Mead	R	1-15-99

Because of the time lapse from drafting until today, certain amendments are necessary:

Page 1, line 22, strike the words "year 1995" and insert "years 1996 and 1997".

Also, on page 1 at line 22 strike the word "three" and on line 23

strike the word "members" and insert "four members during the year of 1996 and three members thereafter".

Additionally, on page 1 beginning on line 26, strike the words "year 1995" and insert "year 1996 and 1997".

As stated before, this bill's direction is supported by the Governor's office. It also has support of former parole board members including Attorney General Carla Stovall and former Representative R. D. Miller. Throughout the legislative process, the only opposition coming to me has been from serving board members

I encourage your favorable action on the bill as amended.

Thank you.

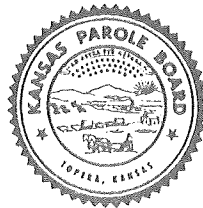
n Scafe
person

Leo "Lee" Taylor
Vice Chairperson

Christopher N. Cowger
Member

Bob J. Mead
Member

Sherman A. Parks, Jr.
Member



KANSAS PAROLE BOARD
LANDON STATE OFFICE BUILDING
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Micah A. Ross
Director

Sandra K. Smith
Assistant Director

DATE: January 24, 1996

TO: Members of the House Judiciary Committee

FROM: Marilyn Scafe, Chairperson, Kansas Parole Board

RE: Organization, Role, and Membership of the Kansas Parole Board

The staff and the members of the Kansas Parole Board fully recognize that the role of the parole board will change as the system moves toward the sentencing guidelines. We understand that we are a part of a transition. The question is how this reorganization should take place and the definition of the board at some point in time in the future. There exists no plan to reach the phase out of the present system.

The plan to reduce the size of the board is in keeping with the intent of the sentencing guidelines. However, the timing of this event is sensitive. It is tied to public safety factors and the efficiency and effectiveness within the entire criminal justice system. Therefore, the board is recommending a study by a committee of professionals within the system to develop a plan with a time line and possible budget implications.

Our work load, not rate of parole, is the key to downsizing. Inmate population under the old law continues to be around 66% and is, therefore, subject to parole procedures. This includes the hearings which the board must conduct. Regular and violation hearings totaled 5,073 for the calendar year of 1995, or an average of 422 a month. The Sentencing Commission reports that 40% of the new admissions for FY95 were under the old law, and there will be continuing admissions through FY96.

The Department of the Budget has recommended consolidation of our staff under the Department of Corrections. This relieves the work load by removing the responsibility and time needed for personnel administration and giving the board access to automation. This positive transition will require some board time in the start up phase. The board is also cooperating with the Department of Corrections to explore the possibilities of interactive television.

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This would dramatically affect the work load. Inmate population, work load, and technology are all significant factors which should impact the decision to reduce the membership of the board.

Considering the above factors, a trend has started toward a more efficient system. The opportunity has arrived to create a plan for continuance toward an appropriate replacement. The following agencies are suggested as those most appropriate to submit a projection of staff and budget from the current operation to an evolution of a new organization. The National Institute of Corrections is the repository of information regarding other states' parole or release procedures. Obtaining a consultant from the NIC would be a shortcut in the research for possible options. American Corrections Association establishes standards for paroling authorities which can be used as guidelines. The Attorney General must be involved to assure that the plan is within statutory requirements. The Sentencing Commission is the official agency for projection of numbers. These are the statistics which should predict the years where downsizing is appropriate based on number of inmates under to old law. The Department of Corrections and the Kansas Parole Board are the resources for assessing the effectiveness and practicality of a plan dealing with offenders.

The work recently set forth in the Post Audit report is a beginning. This took the Kansas Parole Board to 1999, however, some figures are already outdated by information from the Sentencing Commission. Since the individual agencies above have current available information, a plan may be possible before the end of the 1996 session. In dealing with offenders, it seems responsible to set the course of change on a well thought out plan from experienced professionals.