

Approved: 1-30-97
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 3:30 p.m. on January 21, 1997 in Room 313--S of the Capitol.

All members were present except: Phill Kline-(excused)

Committee staff present: Jerry Ann Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Jill Wolters, Revisor of Statutes
Jan Brasher, Committee Secretary

Conferees appearing before the committee: David Brant, Securities Commissioner, State of Kansas
Helen Stephens, Kansas, Kansas Peace Officers Association
and Kansas Sheriff's Association

Others attending: See attached list

The Chair called the meeting to order at 3:30 p.m. and reminded the members of the Supreme Court reception. The Chair discussed issues concerning the bills assigned to the Committee and up-coming hearings.

Bill Introductions:

David Brant, Securities Commissioner requested the introduction of two bills. The first bill request concerns pyramid promotional schemes; making it a felony crime to engage in a pyramid promotional plan. (Attachment 1)

The conferee's second bill request relates to the expungement of criminal convictions, amending K.S.A. 12-4516 and K.S.A. 21-4619. This bill amends the exceptions to require disclosure of expunged convictions in application for registration as a broker-dealer, agent, or investment adviser under the Kansas Securities Act. (Attachment 2)

A motion was made by Representative Adkins and second by Representative Howell to introduce both bill proposals requested by Mr. Brant. The motion carries.

Helen Stephens, representing the Kansas Peace Officers Association and the Kansas Sheriff's requested a bill for each association. The conferee requested a bill on behalf of the Kansas Peace Officers Association that would make the possession of a forged/fake immigration or social security card a level 8 felony. (Attachment 3)

The Committee members discussed whether possession should be a felony and whether the person knowing possesses forged/fake documents. The conferee referred to a 1996 session bill, (**HB 2750**). A member of the Committee stated that the 1996 version (**HB 2750**) makes dealing in false identification documents a severity level 10 nonperson felony, and that version makes possession of false identification documents a class A nonperson misdemeanor.

A motion was made by Representative Pauls and second by made by Representative Shultz to introduce the 1996 version (**HB 2750**) as a Committee bill. The motion carries.

The conferee requested the introduction of a bill on behalf of the Kansas Sheriff's Association that would allow reimbursement to governmental bodies for criminal processing expenses. (Attachment 4)

A motion was made by Representative Dahl and a second by Representative Kirk to introduce as a Committee bill. The motion carries.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 3:30 p.m. on January 21, 1997.

Staff Briefing:

The Chair introduced Ms Jerry Donaldson, Legislative Research Department to brief the Committee on the Interim Judiciary Committee's proposals. The conferee discussed the issues addressed in the "Reports of the Special Committee on Judiciary to the 1997 Legislature." The conferee discussed the study topic of the registration of sex offenders ("Megan's Law") and student stalking . The conferee provided the background for consideration of this topic and related the information received by the Special Committee. The conferee discussed the Special Committee's conclusions and recommendations with consideration of the Attorney General's suggestions. The conferee stated that the Special Committee recommends the introduction of a bill concerning the Kansas Sex Offender Registration Act that contains the requirements of the Jacob Wetterling Act which contains the receipt of the federal Bryne Grant funds on compliance. The Chair reported that a bill concerning this topic will be introduced in the Senate this session.

Ms Donaldson discussed the Special Committee's Report on Juvenile Justice Reform Act and presented the Committee with two handouts: Kansas Youth Authority Mission (Attachment 4), and the KYA Recommended Placement Matrix of January 1997. (Attachment 5)

Mr. Mike Heim, Legislative Research Department related information concerning topics of Civil Code Procedure Changes, Fraudulent transfers, Uniform partnership Act. Mr. Heim also reported on the topics of the reduction in size of the Parole Board, the use of boot camps, the Parole Services Study, issues concerning prison population, and the Kansas Criminal Justice Information System.

The Chair adjourned the meeting at 4:50 p.m.

The next meeting is scheduled for January 22, 1997.

HOUSE JUDICIARY COMMITTEE COMMITTEE GUEST LIST

DATE: 1-21-97

NAME	REPRESENTING
Barbara Lombs	KSC
Julie Meyer	ksc
Hori Rand	KSC
Ann Buselonzki	Kansas Govt. Consulting
Anne Spiess	Peterson Public Affairs Group
Susan Baker	Hein + Weir
KEITH R LANDIS	CHRISTIAN SCIENCES COMMITTEE ON PUBLICATION FOR KANSAS
JAMES CLARK	KCDAA
Helen Stephens	KPOA/KSA
Jeff Bridges	DOB
Sean Stover	Legislative Intern
Lori Callahan	Kammico
Callie Hill Denton	Peterson's Assoc.
Jan Johnson	Dept of Corrections
Kirk Lounry	KTLA
Joanne M. Isabell	KTLA
Monica Jeff	PPEA/OPK
Angel Attada	KTLA
Whitney Damron	Kansas Bar Association



KANSAS

Bill Graves
Governor

OFFICE OF THE SECURITIES COMMISSIONER

David R. Brant
Securities Commissioner

1997 LEGISLATIVE PROPOSAL NUMBER 2

BILL TITLE: PYRAMID PROMOTIONAL SCHEMES

BILL SUMMARY: The bill would make it a felony crime to engage in a pyramid promotional plan. Such a plan is defined to include any plan or operation by which a participant gives consideration for the opportunity to receive compensation which is derived primarily from any person's introduction of other persons into participation in the plan or operation rather than from the sale of goods, services, or intangible property. This bill was introduced in 1996 session as House Bill No. 3021, but the bill died in committee. The Attorney General and County and District Attorney's Association supported the bill and will be asked for their support again this session.

FISCAL IMPACT: There would be no discernible fiscal impact on this agency.

POLICY IMPLICATIONS/BACKGROUND: Pyramid schemes are currently being treated as violations of the Kansas Securities Act. The bill would obviate any existing ambiguity about whether such schemes are securities, and allow for prosecution by local county and district attorneys and the Attorney General.

IMPACT ON OTHER STATE AGENCIES: Resources of the local county and district attorneys, law enforcement agencies, and the Attorney General will be required to investigate and prosecute the offenses. It would not be anticipated that additional staff would be required and that these duties could be absorbed by current staff and resources.

House Judiciary
Attachment 1

1/21/97

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

New Section 1. (a) A "pyramid promotional scheme" means any plan or operation by which a participant gives consideration for the opportunity to receive compensation which is derived primarily from any person's introduction of other persons into participation in the plan or operation rather than from the sale of goods, services, or intangible property by the sale of goods, services, or intangible property by the participant or other persons introduced into the plan or operation.

(b) Establishing, operating, advertising, or promoting a pyramid promotional scheme shall be a severity level 9 nonperson felony.

(c) A limitation as to the number of persons who may participate or the presence of additional conditions affecting eligibility for the opportunity to receive compensation under the plan or operation does not change the identity of the scheme as a pyramid promotional scheme nor is it a defense under this article that a participant, on giving consideration, obtains any goods, services, or intangible property in addition to the right to receive compensation.

(d) The attorney general, or county attorney or district attorney, or both may institute criminal action to prosecute this offense.



KANSAS

Bill Graves
Governor

OFFICE OF THE SECURITIES COMMISSIONER

David R. Brant
Securities Commissioner

1997 LEGISLATIVE PROPOSAL NUMBER 3

BILL TITLE: An act relating to the expungement of criminal convictions, amending K.S.A. 12-4516 and 21-4619.

BILL SUMMARY: The bill provides identical amendments to the two current criminal expungement statutes. K.S.A. 12-4516 sets forth expungement procedures and requirements for city ordinances. K.S.A. 21-4619 provides the same for other criminal violations of Kansas law. Both statutes provide that when a conviction is expunged, the convicted person shall be treated as not having been convicted of that crime, except for certain stated exceptions. This bill amends those exceptions to require disclosure of expunged convictions in application for registration as a broker-dealer, agent, or investment adviser under the Kansas Securities Act.

FISCAL IMPACT: The proposed legislation will have no material impact on agency operations or revenues.

POLICY IMPLICATIONS/BACKGROUND: The proposed amendments are consistent with the policy underlying the expungement statutes to require disclosure of expunged convictions when it is material to an evaluation of a person for licensure by the state in certain sensitive areas. The fiduciary relationship between a financial adviser or broker and their customers, and the attendant responsibilities clearly justifies disclosure. The amendments are consistent with the protection of the public and sound regulation policy.

IMPACT ON OTHER STATE AGENCIES: The bill has no impact on other state agencies.

House Judiciary
Attachment 2
1/21/97
Office (913) 296-3307
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Section 1. K.S.A. 12-4516 is hereby amended to read as follows: 12-45166.

(a) Except as provided in subsection (b), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction if three or more years have elapsed since the person:

(1) Satisfied the sentence imposed; or

(2) was discharged from probation, parole or a suspended sentence.

(b) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, and amendments thereto;

(2) a violation of K.S.A. 8-1567, and amendments thereto;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto;

(4) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto;

(5) a violation of the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications;

(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;

(8) a violation of the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(9) a violation of K.S.A. 21-3405b, and amendments thereto.

(c) When a petition for expungement is filed, the court shall set a date for a hearing thereon and shall give notice thereof to the prosecuting attorney. The petition shall state: (1) The defendant's full name; (2) the full name of the defendant at the time of arrest and conviction, if different than the defendant's current name; (3) the defendant's sex, race, and date of birth; (4) the crime for which the defendant was convicted; (5) the date of the defendant's conviction; and (6) the identity of the convicting court. A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

(d) At the hearing on the petition, the court shall order the petitioner's conviction expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(e) When the court has ordered a conviction expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the conviction. After the order of expungement is entered, the petitioner shall be treated as not having been convicted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the conviction occurred if asked about previous convictions (A) in any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; with a criminal justice agency, as defined by K.S.A. 22-4701, and amendments thereto; or with an institution, as defined in K.S.A.

76-12a01, and amendments thereto, of the department of social and rehabilitation services; (B) in any application for admission, or for an order of reinstatement, to the practice of law in this state; (C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery; (D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission; ~~or~~ (E) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto; or (F) in any application for registration as a broker-dealer, agent, or investment adviser as defined by K.S.A. 17-1252(b), (c), and (l) and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed; and

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged.

(f) Whenever a person is convicted of an ordinance violation, pleads guilty and pays a fine for such a violation, is placed on parole or probation or is granted a suspended sentence for such a violation, the person shall be informed of the ability to expunge the conviction.

(g) Subject to the disclosures required pursuant to subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose conviction of an offense has been expunged under this statute may state that such person has never been convicted of such offense.

(h) Whenever the record of any conviction has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a criminal justice agency, private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an

application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery; or

(9) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission-; or

(10) the Kansas securities commissioner, or a designee of the commissioner, and the request is accompanied by a statement that the request is made in conjunction with an application for registration as a broker-dealer, agent, or investment adviser by such agency and the application was submitted by the person whose record has been expunged.

Section 2. K.S.A. 21-4619 is hereby amended to read as follows: 21-4619.

(a) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10 or any felony ranked in severity level 4 of the drug grid, may petition the convicting court for the expungement of such conviction if three or more years have elapsed since the person: (1) Satisfied the sentence imposed; or (2) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(b) Except as provided in subsection (c), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity levels 1 through 3 of the drug grid, or:

(1) Vehicular homicide, as defined by K.S.A. 21-3405 and amendments thereto or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) a violation of K.S.A. 8-1567 and amendments thereto, or a violation of any law of another state, which declares to be unlawful the acts prohibited by that statute;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262 and amendments thereto or as prohibited by any law of another state which is in substantial conformity with that statute;

(4) perjury resulting from a violation of K.S.A. 8-261a and amendments thereto or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(5) violating the provisions of the fifth clause of K.S.A. 8-142 and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes;

(8) violating the provisions of K.S.A. 40-3104 and amendments thereto, relating to motor vehicle liability insurance coverage; or

(9) a violation of K.S.A. 21-3405b, and amendments thereto.

(c) There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses: (1) Rape as defined in subsection (a)(2) of K.S.A. 21-3502 and amendments thereto; (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto; (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto; (4) criminal sodomy as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505 and amendments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto; (6) indecent solicitation of a child as defined in K.S.A. 21-3510 and amendments thereto; (7) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511 and amendments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-3516 and amendments thereto; (9) aggravated incest as defined in K.S.A. 21-3603 and amendments thereto; (10) endangering a child as defined in K.S.A. 21-3608 and amendments thereto; (11) abuse of a child as defined in K.S.A. 21-3609 and amendments thereto; or (12) any conviction for any offense in effect at any time prior to the effective date of this act, that is comparable to any offense as provided in this subsection.

(d) When a petition for expungement is filed, the court shall set a date for a hearing thereon and shall give notice thereof to the prosecuting attorney. The petition shall state: (1) The defendant's full name; (2) the full name of the defendant at the time of arrest and conviction, if different than the defendant's current name; (3) the defendant's sex, race and date of birth; (4) the crime for which the defendant was convicted; (5) the date of the defendant's conviction; and (6) the identity of the convicting court. There shall be no docket fee for filing a petition pursuant to this section. All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

(e) At the hearing on the petition, the court shall order the petitioner's conviction expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(f) When the court has ordered a conviction expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the conviction. After the order of expungement is entered, the petitioner shall be treated as not having been convicted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the conviction occurred if asked about previous convictions (A) in any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01 and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01 and amendments thereto; with a criminal justice agency, as defined by K.S.A. 22-4701 and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services; (B) in any application for admission, or for an order of reinstatement, to the practice of law in this state; (C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery; (D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission; ~~or~~ (E) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto; or (F) in any application for registration as a broker-dealer, agent, or investment adviser as

defined by K.S.A. 17-1252(b), (c), and (1) and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the conviction.

(h) Subject to the disclosures required pursuant to subsection (f), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose conviction of a crime has been expunged under this statute may state that such person has never been convicted of such crime, but the expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

(i) Whenever the record of any conviction has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a criminal justice agency, private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission; ~~or~~

(10) the Kansas sentencing commission; or

(11) the Kansas securities commissioner, or a designee of the commissioner, and the request is accompanied by a statement that the request is made in conjunction with an application for registration as a broker-dealer, agent, or investment adviser by such agency and the application was submitted by the person whose record has been expunged.

KANSAS PEACE OFFICERS ASSOCIATION

Uncertain of statutes involved.

Would be a level 8 felony to possess a forged/fake government document.

At present, the possession of a forged/fake immigration or social security card is not a crime under federal or state law. KPOA has found this to be a problem in several areas of the state. Possession of a forged document can give access to welfare, various medical services, and other forms of identification.

House Judiciary
Attachment 3
1/21/97

HOUSE BILL No. 2750

By Committee on Judiciary

1-25

9 AN ACT concerning crimes and punishment; relating to false identifi-
10 cation documents; amending K.S.A. 21-3830 and repealing the existing
11 section.

12

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

14 Section 1. K.S.A. 21-3830 is hereby amended to read as follows: 21-
15 3830. (a) (1) Dealing in false identification documents is reproducing,
16 manufacturing, selling or offering for sale any identification document
17 which:

18 ~~(1)~~ (A) Simulates, purports to be or is designed so as to cause others
19 reasonably to believe it to be an identification document; and

20 ~~(2)~~ (B) bears a fictitious name or other false information.

21 ~~(b)~~ (2) As used in this ~~section~~ subsection, "identification document"
22 means any card, certificate or document which identifies or purports to
23 identify the bearer of such document, whether or not intended for use
24 as identification, and includes, but is not limited to, documents purporting
25 to be drivers' licenses, nondrivers' identification cards, birth certificates,
26 social security cards and employee identification cards.

27 ~~(c)~~ (3) Dealing in false identification documents is a severity level 10,
28 nonperson felony.

29 (b) (1) Possessing a false identification document is possessing or
30 having under control any identification document which:

31 (A) Simulates, purports to be or is designed so as to cause others
32 reasonably to believe it to be an identification document; and

33 (B) bears a fictitious name or other false information.

34 (2) As used in this subsection, "identification document" means any
35 card, certificate or document which identifies or purports to identify the
36 bearer of such document, whether or not intended for use as identification
37 and includes documents purporting to be social security cards and im-
38 migration cards.

39 (3) Possessing a false identification document is a class A, nonperson
40 misdemeanor.

41 ~~(d)~~ (c) This section shall be part of and supplemental to the Kansas
42 criminal code.

43 Sec. 2. K.S.A. 21-3830 is hereby repealed.

HB 2750

2

1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.

34
An Act concerning the assessment of the costs of fingerprinting and other jail processing costs as court costs in criminal cases.

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

Section 1: K.S.A. 12-4112 is hereby amended to read as follows: 12-4112. Costs. No person shall be assessed costs for the administration of justice in any municipal court case, except for witness fees and mileage as set forth in > K.S.A. 12-4411, and amendments thereto, and for the assessment required by K.S.A. 1995 Supp. 20-1a11 for the judicial branch education fund and for the assessment required by K.S.A. 1995 Supp. 12-4117 and amendments thereto for the law enforcement training center fund established pursuant to > K.S.A. 74-5619 and amendments thereto, the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, *the detention facility processing fee pursuant to Section 3, below*, and the juvenile detention facilities fund as provided in K.S.A. 1995 Supp. 12-4117.

Section 2: K.S.A. 28-172a is hereby amended to read as follows: 28-172a. Court costs, fees and charges; sheriff fees or mileage for serving papers prohibited; appearance bond for certain parking violations.

(a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows:

(1) For the period commencing July 1, 1994, and ending June 30, 1996:

Murder or manslaughter.....	\$159.50
Other felony.....	129.50
Misdemeanor.....	99.50
Forfeited recognizance.....	59.50
Appeals from other courts.....	59.50

(2) For a period commencing July 1, 1996, and ending June 30, 1998:

Murder or manslaughter.....	\$157.50
Other felony.....	127.50
Misdemeanor.....	97.50
Forfeited recognizance.....	57.50

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Appeals from other courts.....	57.50
(3) On and after July 1, 1998:	
Murder or manslaughter.....	\$156.50
Other felony.....	126.50
Misdemeanor.....	96.50
Forfeited recognizance.....	56.50
Appeals from other courts.....	56.50

(b) In actions involving the violation of any of the laws of this state regulating traffic on highways (including those listed in subsection (c) of > K.S.A. 8-2118, and amendments thereto), any act declared a crime pursuant to the statutes contained in chapter 32 of Kansas Statutes Annotated and amendments thereto or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, a docket fee of \$42 shall be charged during the period commencing July 1, 1994, and ending June 30, 1996, \$41 during the period commencing July 1, 1996, and ending June 30, 1998, and \$40 on or after July 1, 1998. When an action is disposed of under subsections (a) and (b) of > K.S.A. 8-2118, and amendments thereto, whether by mail or in person, the docket fee to be paid as court costs shall be \$42 during the period commencing July 1, 1994, and ending June 30, 1996, \$41 during the period commencing July 1, 1996, and ending June 30, 1998, and \$40 on and after July 1, 1998.

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges for law library funds, the law enforcement training center fund, the prosecuting attorneys' training fund, the juvenile detention facilities fund, the judicial branch education fund, the emergency medical services operating fund and the judiciary technology fund shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, *fees for jail processing pursuant to Section 3 below*, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in > K.S.A. 75-4510a, and amendments thereto, or as specified in > K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of > K.S.A. 75-4508 or > 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

Section 3: - New Section. Criminal Processing Fees as additional Court Costs and Disbursal of Fees.

(a) Any person convicted or diverted, or adjudicated or diverted under a preadjudication program, pursuant to K.S.A. 22-2906 et seq., 38-1635 et seq., or 12-4414 et seq., and amendments thereto, of a misdemeanor or felony contained in chapters 8, 21, 41, or 65 of the Kansas Statutes Annotated, and amendments thereto, where fingerprints are required pursuant to K.S.A. 21-2501, shall pay a separate court cost as determined by the Board of County Commissioners or by the governing body of a City, where a City operates a detention facility, as a booking or processing fee for each complaint.

(b) Such fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

(c) Disbursements of these fees shall be to the general fund of the governing body responsible for the funding of the Sheriff, police department, or county wide law enforcement agency that obtains the fingerprints.

(d) The fee described in subsection (a) above shall not exceed the reasonable cost of processing persons into the jail facility as determined by the governing body.

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KANSAS YOUTH AUTHORITY RECOMMENDED PLACEMENT MATRIX

January 1997

Statement of Purpose

The purpose of the juvenile matrix is to provide the greatest possible assurance that those juveniles whose behavior demands removal from the community, will be in placement for a sufficient period of time to effect meaningful change of behavior; along with a period of aftercare, of sufficient length to foster the achieved changed behavior in the environment the juvenile will be returning to after placement.

Background

While it is generally recognized that the severity of the offense committed has little to do with the ability to rehabilitate the juvenile offender, the Youth Authority believes that only violent, serious and chronic offenders should be committed to juvenile correctional facilities. Even in these cases, the Court should retain the discretion to make alternative placements to the community when warranted. All placements other than those involving juvenile correctional facilities are best made within the community and therefore, appropriate community placements must be developed and adequately funded as part of Kansas juvenile justice reform.

The following shall govern eligibility for admission into state juvenile correctional facilities upon the implementation of the Juvenile Justice Reform Act. The goal of this placement matrix is to keep non-violent juvenile offenders in the community, while allowing the juvenile correctional facilities a longer period of time to work with youth placed in state custody than is presently feasible. By intent, providing longer lengths of stay in state custody will allow the juvenile correctional facilities to provide for public safety, as well as promoting rehabilitation of violent, serious and chronic offenders.

It is important to note that judicial discretion is part of this decision-making process in at least three ways. First, the Court may choose not to commit a juvenile offender to state custody. The rules set forth are threshold requirements deemed necessary to enter the state system. Second, once it has been determined that a juvenile offender will be committed to state custody, the matrix prescribes ranges of length of stay and aftercare terms. Third, the court retains

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jurisdiction to modify a sentence downward upon successful completion of at least the minimum term.

Lengths of Stay and Aftercare terms

The following is a matrix of the types of convicted youth who can be sentenced to state custody. It is not mandatory that they be committed to state custody upon conviction. The Court may sentence juveniles to community-based placements, or programs not included on this matrix if they so choose.

1. Violent Offenders: Violent offenders are divided into two categories, Violent I and Violent II. The Violent I category is defined as a conviction of an off-grid felony. This category can be committed a minimum 60 months and maximum to age 22 years, 6 months. The aftercare term for this individual is set at a minimum 6 months and a maximum of age 23.

The Violent II category is defined as a conviction of a non-drug level 1-3 person felony. This category can be committed a minimum 24 months and maximum to age 22 years, 6 months. The aftercare term for this individual is set at a minimum 6 months and a maximum of age 23.

2. Serious Offenders: Serious offenders are divided into two categories, Serious I and Serious II. The Serious I category is defined as a conviction of a severity level 4, 5 or 6 person felony offense or a severity level 1 or 2 drug felony. This category can be committed a minimum 18 months in state custody and maximum 36 months. The aftercare term for this individual is set at a minimum 6 months to a maximum 24 months.

The Serious II category is defined as an conviction of a severity level 7-10 person felony offense with one prior felony conviction. This category can be committed a minimum 9 months in state custody and maximum 18 months. The aftercare term for this individual is set at a minimum 6 months to a maximum 24 months

3. Chronic Offenders: Chronic offenders are divided into three categories, Chronic I - Chronic Felon, Chronic II - Escalating Felon and Chronic III - Escalating Misdemeanant. The Chronic I - Chronic Felon category is defined as a combination of:
a) one present nonperson felony and two prior felonies, OR

b) one present severity level 3 drug felony and two prior felony convictions.

This category can be committed a minimum 6 months in state custody and maximum 18 months. The aftercare term for this individual is set at a minimum 6 months to a maximum 12 months.

The Chronic II - Escalating Felony category is defined as a combination of:

- a) one present felony and two prior misdemeanor convictions, OR
- b) present felony and two prior severity level 4 drug convictions, OR
- c) present severity level 3 drug felony and two prior misdemeanor convictions, OR
- d) present severity level 3 drug felony and two prior severity level 4 drug convictions.

This category can be committed a minimum 6 months in state custody and maximum 18 months. The aftercare term for this individual is set at a minimum 6 months to a maximum 12 months.

The Chronic III - Escalating Misdemeanant category is defined as a combination of:

- a) one present misdemeanor and two prior misdemeanor convictions and two out-of-home placement failures, OR
- b) one present misdemeanor and two prior severity level 4 felony convictions and two out-of-home placement failures, OR
- c) one present severity level 4 drug felony and two prior misdemeanor convictions and two out-of-home placement failures, OR
- d) one present severity level 4 drug felony and two prior severity level 4 felony convictions and two out-of-home placement failures.

A Placement failure is defined as a situation in which a juvenile offender has been placed out-of-home in an accredited placement in a juvenile offender case; and the offender has significantly violated the terms of probation in that case. A mandatory requirement for such a youth to be placed in a juvenile correctional facility is that all appropriate local placement options have been exhausted. A court finding must be made acknowledging that appropriate community placement options have been pursued and no such option is appropriate.

This category can be committed a minimum 3 months in state custody and maximum 6 months. The aftercare term for this individual is set at a minimum 3 months to a maximum 6 months. The Commissioner shall work with the community to provide on-going support and incentives for the development of additional community placements to ensure that this option is not frequently utilized.

4. Conditional Release Violators: Conditional release violators can be committed a minimum 3 months and a maximum of 6 months. The aftercare term for this individual is set at a minimum 2 months to a maximum 6 months, or the maximum of the original aftercare term whichever is longer.

In chart format, the categories, lengths of stay and aftercare terms follow:

Offender Type	Offense Level	Length of Stay	The aftercare Term
Violent I	Off-grid	60 mo. - 22 ½ years of age	6 mo. - 23 years of age
Violent II	1 - 3 Person felony	24 mo. - 22 ½ years of age	6 mo. - 23 years of age
Serious I .	4 - 6 Person OR 1 - 2 Drug felony	18 - 36 mo.	6 - 24 mo.
Serious II	7 - 10 person felony + 1 prior felony conviction	9 - 18 mo.	6 - 24 mo.
Chronic I Chronic Felon	present non-person felony or level 3 drug felony + 2 prior felony convictions	6 - 18 mo.	6 - 12 mo.
Chronic II - Escalating Felon	present felony OR level 3 drug + 2 prior misdemeanor convictions OR level 4 drug convictions	6 - 18 mo.	6 - 12 mo.
Chronic III - Escalating Misdemeanant	present misdemeanor OR level 4 drug felony + 2 prior misdemeanor or level 4 drug convictions + 2 placement failures + exhaustion of community placements finding	3 - 6 mo.	3 - 6 mo.
Conditional Release Violator	All	3 - 6 mo.	2 - 6 mo.

Risk Tool

The Youth Authority recommends use of a risk assessment tool as part of the predispositional investigation for the court's consideration in determining length of stay. Although some degree of judicial discretion is appropriate, a risk tool can be of value in the sentencing phase as an objective means to promote standardization and uniformity of sentencing throughout the state. State-wide utilization of a risk assessment tool would result in more effective projection of juvenile correctional facility capacity needs and promote efficient use of resources by requiring youth with high risk scores to serve longer incarceration periods than those with low risk scores. The juvenile justice commissioner shall designate the risk assessment tool to be utilized for this purpose.

Mandatory Minimums

For each category listed above, the Court pronounces a specific term of incarceration within the range indicated, i.e. 17 months for a Serious II category conviction. The juvenile offender may be awarded good time through participation in education, treatment, or vocational programs, activities, behavior modification, etc. in a manner determined by the Juvenile Justice Commissioner. However, the juvenile offender may serve no less than the minimum sentence authorized under the specific category of the placement matrix.

Sentence Modification Process

The Juvenile Justice Commissioner may petition the Court to modify the initial sentence after a juvenile offender has served the minimum length of stay indicated by the matrix, based upon program completion, positive behavior modification, progress made, etc. If the Court grants the modification, the sentence shall be shortened, and the term of aftercare that was pronounced at sentencing shall commence. If the Court does not grant the modification, the juvenile's counsel may petition for modification and a formal hearing shall be granted. The aftercare supervisor may also petition the court for early discharge, extension or revocation from conditional release/aftercare.

The Commissioner shall monitor placement trends and develop strategies to address disproportionate minority confinement trends should they develop.

Kansas Youth Authority

Our Mission

Our mission is to serve the citizens of Kansas by designing a system of juvenile justice which promotes public safety, holds juvenile offenders accountable for their behavior, and improves the ability of juveniles to live more productively and responsibly in the community.

Kansas Youth Authority

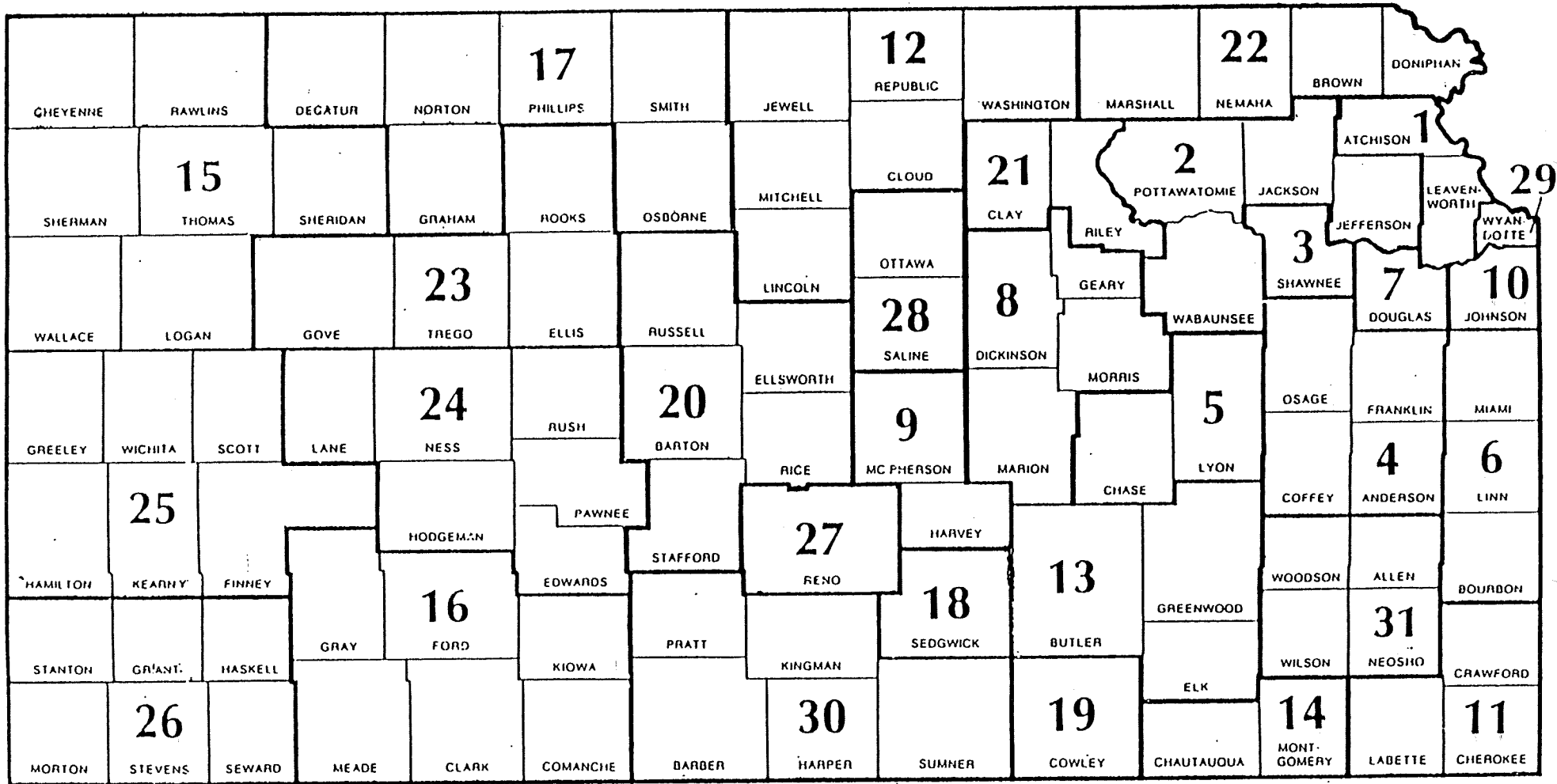
Our Mission

JUVENILE JUSTICE SYSTEM COMPONENTS

II. This mission shall also be implemented through the development of a juvenile justice system composed of components which:

- ☆ establish a full range of placement options from diversion through maximum security confinement and a full continuum of post-release, aftercare services;
- ☆ impose appropriate sanctions and consequences fairly, swiftly and uniformly;
- ☆ deal effectively with chronic, serious and violent juvenile offenders;
- ☆ provide for individualized supervision, care, accountability and treatment of youthful offenders;
- ☆ empower parents and encourage parental involvement and responsibility;
- ☆ require the collection and dissemination within the juvenile justice system of relevant and accurate information on youthful offenders and mandate the sharing of information among appropriate entities;
- ☆ allow communities to develop, implement and operate programs appropriate to local needs;
- ☆ provide for ongoing innovation, research and evaluation to improve and support all components of the system;
- ☆ allow for the utilization of private and non-profit service providers when appropriate, and encourage the use of intergovernmental agreements by the commissioner of juvenile justice.

Kansas Judicial Districts (31)



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JUVENILE OFFENDER FILINGS/POPULATION/GEOGRAPHIC AREA/JUDGES/LOCATION

DIST.	POPULATION	SQUARE MILES	JUVENILE OFFENDER FILINGS					NUMBER OF JUDGES		MERIT SELECTION		LARGEST CITY
			FY 95	FY 94	FY 93	FY 92	FY 91	DJ	DMJ	Elected	Selected	
1	83,677	1,089	644	435	477	373	353	5	--		X	Leavenworth
2	50,881	3,100	209	185	163	117	150	2	3		X	Wamego
3	163,425	572	873	1,057	816	1,081	1,033	14	--		X	Topeka
4	54,225	3,454	312	238	197	187	177	3	2		X	Ottawa
5	37,202	1,996	428	335	290	320	236	3	1		X	Emporia
6	47,150	1,965	283	193	167	189	171	3	1		X	Fort Scott
7	84,538	789	370	359	281	348	378	5	--		X	Lawrence
8	70,967	3,469	681	598	526	515	397	5	2		X	Junction City
9	58,414	849	287	272	253	154	176	3	--		X	Newton
10	375,147	620	2,329	2,174	1,895	1,923	1,795	18	--		X	Olathe
11	80,366	2,267	411	355	348	346	277	6	1		X	Pittsburg
12	38,077	5,325	164	186	144	187	191	1	6		X	Concordia
13	64,491	2,221	301	313	292	238	258	3	2	X		El Dorado
14	42,143	2,133	240	204	220	245	267	3	1	X		Coffeyville
15	29,471	4,883	133	115	108	133	90	2	6	X		Colby
16	45,557	4,304	379	301	305	306	171	3	5	X		Dodge City
17	28,683	4,645	161	112	92	177	79	1	6	X		Norton
18	416,690	878	1,550	1,738	1,503	1,721	1,707	25	--	X		Wichita
19	36,646	900	260	239	264	252	283	3	--	X		Arkansas City
20	58,667	3,625	398	382	299	341	279	3	4	X		Great Bend
21	76,265	1,450	214	169	203	153	107	3	1		X	Manhattan
22	40,596	3,218	139	111	97	119	77	2	3	X		Hiawatha
23	38,704	3,245	237	144	114	83	98	2	3	X		Hays
24	23,262	5,338	93	47	47	79	82	1	6	X		Larned
25	50,075	4,507	359	262	330	356	273	4	5		X	Garden City
26	41,207	5,046	374	301	250	224	223	2	5	X		Liberal
27	62,146	788	444	459	423	374	360	4	--	X		Hutchinson
28	55,968	1,408	751	674	655	530	432	4	1		X	Salina
29	158,704	1,183	1,224	1,315	1,303	1,157	1,362	16	--	X		Kansas City
30	56,308	4,574	405	296	240	274	264	4	3		X	Wellington
31	45,665	1,941	363	303	221	161	190	3	2		X	Chanute

YOUTH CENTER SECURITY ENHANCEMENTS

The Governor in FY 1996 recommended for the Youth Centers \$1.0 million for security enhancements and the construction of fences. The legislature fully supported this recommendation and requested the Chairperson of the Kansas Youth Authority(KYA)/Secretary of Social Rehabilitation Services to review these security enhancements. Both agencies were asked to make recommendations to allocate the \$1.0 million. A decision was made early not to construct full perimeter fencing because its costs would exceed the amount recommended. For example, to construct a full perimeter fence around the Youth Center at Atchison (YCAA) was estimated to cost \$5.6 million which included a new control building, visitors center, and maintenance facility. It was decided not to pursue the construction of fences until the results of the needs assessment studies conducted by the KYA/SRS through private contractors are evaluated.

The Youth Centers refined their security enhancements and identified requirements by priority totaling \$1,345,240. These priorities were presented to SRS/Rep. David Atkins and reduced to \$744,640. This refined security enhancement package was presented to the Finance Council on November 14, 1996 and unanimously approved. These security enhancements deal with a gate/radios at the Youth Center at Atchison and audio/video surveillance devices at the Youth Centers at Learned, Beloit, and Topeka to be used primarily in dormitories/ hallways. These devices are designed to prevent unauthorized access of persons at night on YCAA grounds and to monitor residents at night to reduce incidences of juvenile or staff assaults; prevent self- inflicted injuries; and reduce the transfer of contraband at the other Youth Centers. The following security enhancement package was approved:

1. Atchison: Add a security gate at the South Entrance and add twelve security radios. Total: \$28,200.
2. Beloit: Add audio surveillance and motion detection systems to three cottages and a video surveillance system for the security cottage. Total: \$53,560.
3. Learned: Add video surveillance systems for three buildings and add thirty-two radios with second channel, plus security screens for the Allen Building. Total : \$422,770.
4. Topeka: Add video surveillance systems for three older buildings and add a video surveillance system for the high crisis living unit pedestrian sallyport. Total: \$240,110.

EXECUTIVE SUMMARY

I. INTRODUCTION

The Kansas Sentencing Commission was designated the state agency by the Kansas Youth Authority to complete Phase I of the Needs Assessment for the implementation of HB 2900 and the construction of the maximum security juvenile facility. Phase I of the Needs Assessment consisted of two research components. The first component included compiling data on the types of juveniles currently held in state youth centers and their present lengths of stay. The second component involved projecting future juvenile bedspace needs for the state incorporating the criteria set forth in HB 2900. In order to facilitate this task, the Commission entered into a contract with the National Council on Crime and Delinquency to develop bedspace projections utilizing the Prophet Simulation Projection Model.

The first task was accomplished in the fall of 1996, by staff of the Commission reviewing youth center files for all juveniles admitted to each of the state youth centers during calendar year 1995, including new admissions and conditional release violators admitted during 1995. Utilizing a sixty-three item data collection instrument, a sample of 903 juveniles was developed. This information was combined with automated case-level data provided by the individual youth centers, which contained profile and length of stay data for juveniles admitted or released from the youth center in 1995 and 1996. Data collected focused on characteristics of juveniles currently housed in youth centers, offense histories, prior placements and current lengths of stay. The data collected serves as the basis for the "Population, Profiles and Trends" portion of this report.

From the database developed, the NCCD Prophet Simulation Model was used to project future youth center population in Kansas. This computerized simulation model mimics the flow of juvenile cases through the state's residential youth center population over a ten year forecast period and produces projections of key offender sub-groups. The Prophet model also incorporates external variables such as demographic growth rates and arrest rates for the juvenile population. Two separate population projections scenarios are included in this report. The first projection scenario indicates bedspace needs for youth centers if current practices remain unchanged and only demographic changes are factored into the model. The second population projection scenario incorporates the criteria for confinement that was developed by the Placement Matrix Sub-Committee of the Youth Authority. The placement matrix defines which juvenile offenders will be eligible for placement at a state youth center and assigns a corresponding length of stay.

The information presented in both parts of this report provides an in-depth look at our current and future youth center populations. The data provided can serve as a foundation for future policy decisions pertaining to juvenile offenders in the state of Kansas.

II. CRIMINAL JUSTICE TRENDS

Juvenile correctional systems across the country are continuing to experience increases in their populations which have prompted diverse and complicated policy responses. These increases are due to a wide range of forces including demographic trends, crime rates, social and economic forces and changes in juvenile justice policies affecting sentencing, commitment and release practices.

A. Demographic Growth in the Population At-Risk

According to available information, recent demographic pressures on the state's juvenile justice system is projected to ease over the next ten years as the children of the "baby boomers" move into their twenties. While demographic forces do not cause increases or decreases in juvenile crime, changes in the relative size of the number of young people living in Kansas communities who are "at-risk" for committing crimes is a factor that should be considered when planning for the allocation of future juvenile justice resources.

The number of young people between 10-18 years of age increased by approximately eight percent between 1990-1995. Based on statewide demographic projections provided by state officials, the number of persons age 10-18 is projected to increase by approximately two percent between 1995 - 2000. In addition, over the ten year period 2000-2010, the number of persons aged 10-18 is projected to decline by approximately 10 percent across the state. As the population at risk ages, persons 15-18 years old are projected to increase at a faster rate than persons 10-14 years of age.

Nearly 75 percent of annual admissions to youth centers are commitments from only ten counties across the state. In these ten counties, the number of persons 10-18 years old has increased at twice the reported statewide rate. Continued increases in this population are projected over the next ten years in these counties, but the rate of growth is projected to be less than half of historical increases. It is reasonable to assume that projected demographic changes and increases within the counties contributing most to youth center admissions will translate into continued moderate intake pressures.

B. Trends in Juvenile Arrests

Recent trends in arrests of young persons for serious crimes is below the national average and well below increases in the population at-risk in the state. Juvenile arrest data for Kansas were available for the years 1990-1994 for persons 10 - 18 years of age.¹ During this five year period, arrests for serious crimes (as measured by the FBI's Uniform Crime Index) increased by five percent, or about one percent each year, and approximately 500 more juveniles were arrested for serious

¹Juvenile arrest data typically refer to persons 10 - 17 years of age; information presented in this document includes persons 18 years of age.

index crimes in 1994 than were arrested in 1990. Most of the reported increases in arrest volume over the last several years across all serious crime categories can be attributed to younger juveniles age 10 - 14 years -- the demographic cohort projected to show the greatest declines across the state over the next ten years.

Since 1990, 60-70 percent of arrests of young people for serious violent crimes (murder, rape, robbery and aggravated assault) in Kansas have been for aggravated assault charges. Arrests for the most serious violent crimes of murder and rape represented nine percent of all arrests for serious index crimes in 1994. Between 1990 - 1994, arrests for violent index crimes increased by 39 percent from 842 arrests in 1990 to 1,167 in 1994. During this same period, arrests for serious nonviolent index crimes (burglary, arson, theft/larceny and auto theft) increased by two percent -- fewer than 200 juveniles. Arrests for serious nonviolent index crimes decreased between 1990 - 1994, specifically for the offenses of arson, burglary and auto theft. Arrests for theft and larceny increased by 10 percent over the same period.

C. Average Daily Population in Kansas Youth Centers

Youth center population levels are a function of the number of admissions into the facilities and the lengths of stay of admitted offenders. Changes in either, or both, of these population factors will result in increases or decreases in facility average daily populations. On average in 1991, there were 443 offenders confined in state youth centers at any given time. By 1996, the residential confined population had increased by 21 percent to just under 550 youths.

Between 1991-1994, the population and capacity of state youth centers remained fairly constant and actually declined slightly in 1993. Beginning in 1994, however, the number of juvenile offenders housed in state facilities began to drift upward. In 1995, the average daily population increased by just over 75 offenders -- a one year increase of over 16 percent and 79 percent of the total increase that has occurred since 1991. The greatest increase in average daily residential population levels between 1991-1996 has occurred at the Larned facility which has more than doubled its capacity over the last five years. Average daily population levels at the Topeka facility has increased by 19 percent since 1991 (from 200 to 240 juveniles), while the number of offenders confined at the Atchison and Beloit facilities has not increased significantly over the period.

1. Admissions Into State Youth Centers

The decision to commit a juvenile to a youth center is a policy decision that is determined by a number of factors, including the nature of the committing offense, criminal history of the juvenile, the availability of youth center bed space and the availability of alternative placement/punishment options in the State. In the decade of the 1990's, growth in annual admissions to state youth centers has out-paced reported increases in both the population at-risk as well as the number of arrests for serious crimes.

Between 1991 - 1996, the number of new admissions and conditional release violators admitted to youth centers increased from 613 to 941 per year — an increase of 54 percent over the period or 328 admissions. In 1991, an average of 50 offenders per month were admitted to state facilities. By mid-1996, average monthly admissions had increased to 78 offenders per month. Over the last six years, admissions into youth centers have increased at each of the four state facilities. A significant proportion of the increase in admissions statewide, however, can be attributed to increased capacity at the Larned center which resulted in a tripling of the intake volume at that facility between 1992-1996. Controlling for the "one-time" increase in capacity at Larned, admissions have increased by between 30-35 offenders per year since 1991.

It is reasonable to assume that under current policies, practices and procedures admissions to youth centers will continue to increase in the future. Since residential population growth has not been as significant as growth in admissions, under current policies, there will be continued pressure to shorten lengths of stay to control facility population growth.

2. Lengths of Stay in State Youth Centers

Decision makers exercise considerable discretion in determining appropriate lengths of stay in state youth facilities. Under current policies, there will be continued pressure to reduce lengths of stay to control facility population growth. According to 1995-1996 information collected by state personnel and analysis of automated data files provided by youth center staff, admitted offenders remain confined in state youth centers, on average, for 6-8 months. Based on the most serious crimes for which juveniles are admitted to youth centers, offenders adjudicated for offenses falling into non-drug sentencing guidelines levels 0-6² are held in facilities, on average, for just under 12 months. Juveniles admitted for committing crimes which fall into non-drug sentencing guidelines levels 7-10 are confined for approximately seven months. This same length of stay is associated with drug and misdemeanor admissions.

The longest average lengths of stay are reported by the Topeka facility, followed in order by Atchison, Beloit and Larned. On average, youths spend approximately 40 days in detention facilities prior to admission to youth centers.

²Severity Level 0 is representative of an Off-Grid offense.

III. Profile of Offenders Admitted to State Youth Centers

A. Youth Center Admissions³ Characteristics

The "typical" admitted offender might be a 16 year old male who resided in a single parent household in Sedgwick or Wyandotte county prior to commitment. There is a very strong chance the youth was housed in a secure detention facility for at least 40 days prior to admission. In calendar year 1995, approximately 900 youths were admitted to state youth centers. Fully 85 percent of admitted youths are males and 15 percent are females. Consistent with reported national profiles, admitted offenders are disproportionately minority youths. Approximately half of admissions are categorized as white; 35 percent are classified as black, and the remaining admissions fall into other racial/ethnic categories.

Just under half of annual admissions to youth centers (42 percent) are admitted to the Topeka facility; 43 percent of youths are admitted to the Larned and Atchison facilities, combined; 15 percent are admitted the Beloit facility. The top four committing counties in the state are Sedgwick (24 percent of admissions), Wyandotte (21 percent), Johnson (9 percent) and Shawnee (7 percent). Together these four counties contribute approximately 61 percent of annual commitments to youth centers. Sedgwick and Wyandotte counties committed 45 percent of annual admissions in 1995.

On average, admissions are 16 years of age at the time of admission to a youth center. While the vast majority of admissions (80 percent) are age 15 and above at the time of admission to state facilities, 20 percent (176 offenders) are 14 years old or less upon admission; 23 percent are 17 years old or greater. Only 19 percent of admitted youths (172 of 903 admissions) live with both natural parents prior to commitment to youth centers; 33 percent of admissions reside in "two-parent" households; 41 percent of admissions live with their natural mother. Immediately prior to admission, the overwhelming majority of juveniles admitted to youth centers (75 percent of annual commitments) are held in detention facilities prior to admission. On average, these youths spend 40 days in detention.

B. Legal Status and Admitting Characteristics

The vast majority of juvenile offenders are under no criminal justice supervision at the time of admission to state youth centers. The vast majority of annual admissions are classified as "new" admissions (81 percent of 903 admissions); approximately 100 youths (11 percent of admissions) are committed to youth centers as returns from conditional release. Just under half of admissions (387 of 903 cases) are on probation at the time of intake, and 57 percent are under no criminal justice supervision at the time of admission.

³ Characteristics are based on offenders admitted to youth centers in 1995 and include new admissions, conditional release violators, transfers between facilities and "other" admit types.

Approximately 35 percent of admissions have only one admitting charge, while 64 percent of admissions enter youth centers with two or more admitting offenses. Based on their most serious admitting charges, the majority of admissions (61 percent) have committed at least one felony; 36 percent of admissions (325 cases) are admitted to youth centers on misdemeanor charges. Less than half of admissions enter youth centers for committing felony or misdemeanor person crimes (393 of 903 youths); 47 percent of admissions have committed felony or misdemeanor nonperson crimes (425 of 903 youths).

When grouped by most serious admitting charge, 274 offenders enter youth centers for committing the crimes of property theft and burglary. Based on severity level of most serious admitting offenses, just under 20 percent of admissions (171 of 903 cases) have committed felony crimes which fall into non-drug levels 0 through 6; 38 percent (345 admissions) have committed felony non-drug level 7 through 10 offenses. Just under seven percent of admissions (59 cases) have most serious offenses which fall on the felony drug guidelines grid.

C. Offense History and Background

The vast majority of admissions to state youth centers do not have extensive histories of prior juvenile court dispositions. Nearly all admitted youths (95 percent of cases) have documented **prior court appearances on different cases** at the time of admission to youth centers; 352 youths (39 percent of cases) have 3+ prior court appearances. While approximately 11 percent of admissions (99 offenders) have five or more prior adjudications, nearly half of all juveniles admitted to youth centers (41 percent) have **no prior adjudications** listed in their records (368 of 903 youths). In addition, for youths with documented prior adjudications at the time of admission, 56 percent (301 of 535 cases) have been adjudicated on previous felony cases; 44 percent of admissions with prior adjudications (234 of 535 cases) have prior misdemeanor adjudications only.

Fully 67 percent of admissions to youth centers have **no prior felony adjudications**; an additional 18 percent of admissions had only one prior felony adjudication; approximately 15 percent of admissions had 2+ prior adjudications for felony offenses at the time of admission.

For 75 percent of cases, the current youth center admission represents the first admitting event; 25 percent of youths had at least one previous admission to youth centers. For admissions with no prior recorded adjudications, 60 percent were admitted to youth centers for nonperson crimes, drug related charges or violations of supervision.

Despite this finding, the overwhelming majority of admitted youths (81 percent of admissions) have experienced at least one **prior out-of-home placement** at the time of admission to youth centers (including the admitting event); 41 percent of admissions had 3+ prior out-of-home placements.

IV. FORECAST OF FUTURE STATE YOUTH CENTER BED SPACE NEEDS

Clearly, the decision to commit a juvenile to a state youth center is a policy decision that is effected by a number of factors, including the nature of the committing offense, criminal history of the juvenile, availability of youth center bed space and the availability of alternative placement/punishment options in the State. As such, any forecast of future bed space needs should not be viewed as derived from a "crystal ball" that is predicting the future, or indeed projecting future bed space "need," but rather an outcome of a combination of juvenile justice trends and the implementation of policy choices by decision makers.

Over the course of this project a simulation model was developed which "mimics" the flow of cases through the state's residential youth center population over a ten year forecast horizon and produces projections of key offender sub-populations. The model that was developed to produce the population forecast also allows researchers to assess the likely impacts of proposed changes to existing policies, procedures and practices on future youth center population levels.

Two separate forecasts of future youth center population levels were produced over the course of this project. The first is referred to as the "Baseline Forecast" and is based on the assumption that current admitting and release policies remain unchanged over the next ten years. It represents a "best estimate" of future youth center bed space requirements based on profiles of admitted youths in 1995, and lengths of stay in state facilities reported between 1995-1996. The second alternative forecast scenario is based on the assumption that current admitting and release policies are changed as result of implementing a placement decision matrix. Under this forecast scenario, only juvenile offenders meeting certain criteria will be admitted to youth centers in the future. Admitted youths will spend longer periods of confinement upon admission.

A. Baseline Forecast: If Current Policies Remain the Same

It is reasonable to assume that under current policies admissions to youth centers will continue to grow and as admissions grow the number of state facility beds needed for juvenile offenders will increase in the future. Based on several key assumptions which relate to "who" is admitted to youth centers in the future; the number of offenders admitted in each future year and lengths of stay upon admission, the state youth center population can be expected to increase by between 10-43 youths per year over the next ten years — an average of 23 offenders per year.

Between 1991-1996, the youth center population increased by an average of 4.3 percent each year. The projected increase in the population over the next ten years approximates this historical percentage growth, and is projected to increase by an average of 3.7 percent in each future year. If current policies remain unchanged, between 629-655 youths are projected to be housed in youth centers by the year 2000. This represents an increase of 94-120 youths over the average monthly population levels reported in 1996 (through October 1996). The population is projected to increase to between 751-774 youths by the year 2005 if current admitting and release policies remain unchanged.

B. State Youth Center Population Forecast: Implementation of the Recommended Placement Matrix

When compared with a baseline forecast, which assumes that current admitting and release policies remain unchanged in the future, implementation of a placement matrix results in a projection of between 85-110 fewer youth center beds over the next ten years. In the Fall of 1996, the Kansas Youth Authority appointed a subcommittee to develop a placement matrix for adjudicated youths for use upon implementation of the Juvenile Justice Reform Act. Such a matrix would set forth guidelines governing "who" should be admitted to state youth centers and "how long" admitted offenders should remain in confinement. The overall goal of a formal placement matrix is to divert selected nonviolent youthful offenders from state correctional facilities by placing them in community alternative programs while providing for longer periods of confinement for chronic, serious and violent juvenile offenders. Analysts from the National Council on Crime and Delinquency and the Kansas Sentencing Commission worked with subcommittee members to operationalize the recommendations with regard to placement decisions and lengths of stay.

Based on the assumption that the placement matrix is implemented in July 1997 and fully operational in July 1998, the state youth center population is projected to increase to between 547-575 juveniles by the year 2000. This represents an increase of 10-40 youths over the average monthly population levels reported in 1996 (through October 1996). The population is projected to increase to between 681-704 juveniles by the year 2005. When compared with a baseline forecast, which assumes that current admitting and release policies remain unchanged in the future, implementation of the placement matrix results in a lower projection of future bed space need. The average monthly population is projected to reach 556 juveniles in the year 2000 and just under 700 juveniles by the year 2005. Approximately 14 percent fewer juveniles are projected to be state facilities with the implementation of the placement matrix.

Implementation of the placement matrix will lead to a change in profile of juveniles housed in youth centers. When compared with the baseline forecast, the number of juveniles projected to be housed in state facilities for serious and violent crimes increases at a much higher rate with the implementation of the placement matrix and associated lengths of stay recommendations. The number of youths projected to be housed in state facilities with off grid and severity level 1-3 charges is projected to increase by 150 percent between 1997 - 2000, and 240 percent by the year 2005.

V. SUMMARY AND CONCLUSIONS

The Juvenile Justice Reform Act initiated by the passage of HB 2900 introduces a series of changes to the state's current policies and procedures regarding juvenile offenders. Foremost among those changes is the accountability of juveniles who commit serious violent offenses. This policy change is reflected in the criteria set forth in Placement Matrix adopted by the Youth Authority. If a juvenile is convicted of a serious violent offense, he or she will be confined to a state youth center for a significant amount of time. The increased sentence length serves the dual purpose of making

the juvenile take responsibility for his or her actions, but also enabling the juvenile to have sufficient opportunity to participate in programs to address and correct the anti-social behavior. The proposed increase in sentence length for violent offenders does, however, translated into increased bedspace needs at our state youth centers.

The other policy change instituted with the passage of HB 2900 is that juveniles convicted of misdemeanor or low level felony offenses will serve their sentence in the community. Individual communities throughout the state will have the opportunity to develop and initiate community based programs that will address the specific needs of juvenile offenders in their communities. The Juvenile Justice Reform Act is based on the premise that incarceration in state youth centers should be reserved for only the most violent and serious juvenile offenders. Thus, many of the current youth center beds being utilized for misdemeanor offenders will be available for serious violent offenders.

The state youth center population projections are based on assumption that the gradual implementation of the placement matrix will occur over time. Of even more importance, is the assumption that there will be sufficient community based programs to adequately handle the less violent and serious juvenile offenders. If the resources and development of the community based programs do not materialize, then the entire juvenile justice system could find itself in a crisis. As the state embarks on this monumental task of overhauling our juvenile justice system, careful planning and sound policy decisions will play a vital role at every decision point.