

Approved: January 26, 1999
Date

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:12 a.m. on January 21, 1999 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Jerry Donaldson, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Clint Riley, Department of Wildlife and Parks
Jim Clark, County and District Attorney's Association
Albert Murray, Commissioner, Juvenile Justice Authority

Others attending: see attached list

The minutes of the Jan. 20 meeting were approved on a motion by Senator Bond and a second by Senator Oleen. Carried

Conferee Riley requested the introduction of a bill which would establish a mandatory penalty for illegal taking or commercialization of a big game species. (attachment 1) Following brief discussion, Senator Donovan moved to introduce the bill, Senator Bond seconded. Carried.

Conferee Clark requested introduction of bills which would: amend K.S.A.'97 Supp. 21-4711 "to allow nonperson felonies to aggregate to person felony for habitual offender"; and consolidate "the firearm possession by a convicted felon into a single statute....."(attachment 2) Another request for a reprise of **SB 435** was placed on hold as there was a question as to whether or not the contents of the bill was part of a bill requested earlier by the Office of Judicial Administration. Senator Vratil moved to introduce the bills, Senator Oleen seconded. Carried.

Conferee Murray presented a briefing on the Juvenile Justice Authority (JJA). He highlighted the community plan discussing the process of "identifying and addressing the needs of juveniles at the community level per requirements of the Juvenile Justice Reform Act of 1996." He stated that the JJA is currently conducting an analysis of each plan and hopes to complete the analysis in February 1999. There was discussion regarding the funding of the project. Conferee Murray stated \$40 million was budgeted in the act. On further inquiry by Committee he presented a breakdown of the monies allotted for various activities, i.e., intake and assessment, case management, etc. He further discussed the master plan including an interim plan for placement of Topeka offenders and presented a summary of necessary legislative proposals.(attachment 3) The Chair invited Conferee Murray to return to continue his briefing since time constraints necessitated closure of this meeting and requested he bring back a typical community plan and also specifically discuss the placement matrix. Senator Oleen also suggested Committee review the interim committee report on the JJA.

The meeting adjourned at 10:58 a.m. The next scheduled meeting is Tuesday, January 26, 1999.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: January 21, 1999

NAME	REPRESENTING
Kathy Porter	OJA
Fred Mertz	Ricky Ricardo Enterprises
Jim Clark	KCDA
Clint Riley	KDWP
John P. Smith	KSNA
Anthony Ellis	SRS-CFS
Oliver Delshap	—
Barry Jones	KSC
Phil Pedigo	JJA
Albert Skurray	JJA
Alvin Dallas	JJA
Debbie Casement Mason	JJA
Orlando Miller	Ks. Assn of Counties
Maxwell Xess	Sedgewick County
Tommy Thompson	KTLA



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

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REQUEST FOR INTRODUCTION OF BILLS
KANSAS DEPARTMENT OF WILDLIFE AND PARKS
January 21, 1999

The Kansas Department of Wildlife and Parks respectfully requests that the Senate Committee on Judiciary consider introduction of legislation concerning mandatory hunting license revocation for certain big game violations.

Background:

The department has received increased public comment and concern regarding growing instances of big game poaching, and the consequent negative impacts on landowners and their property as well as on the natural resource. Simultaneously, public comment has expressed frustration with the disinclination of certain courts to impose available fines and punishment.

Proposal Summary:

The department proposes to establish a mandatory penalty for illegal taking of a big game species or for commercialization of a big game species. In addition to any other sentence, fine or other penalty imposed by the court, a person convicted of such violation would forfeit all hunting privileges for:

- One year upon first conviction,
- Three years upon second conviction, and
- Five years upon third and subsequent convictions.

Sen. Jud.
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OFF.

Julie A. McKenna, President
David L. Miller, Vice-President
Jerome A. Gorman, Sec.-Treasurer
William E. Kennedy, III, Past President



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DIRECTORS

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Kansas County & District Attorneys Association

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EXECUTIVE DIRECTOR, JAMES W. CLARK

January 20, 1998

TO: Senate Judiciary Committee

FROM: Kansas County and District Attorneys Association

RE: Request for Committee Bills

KCDAA requests that the following proposals be considered for introduction of committee bills:

*Hold
may be
kill* { 1. Amending K.S.A. '97 Supp. 21-4603d by inserting language specifically including release on bail in the mandate for imposing consecutive sentences, and allowing imposition of imprisonment for the new crime, even when it otherwise is a presumptive probation sentence, without constituting a departure. (a reprise of SB 435).

2. Amending K.S.A. '97 Supp. 21-4711 to allow nonperson felonies to aggregate to person felony for habitual offenders, as follows:

21-4711. "(i) Every two prior convictions or juvenile adjudications of nonperson felonies will be rated as one person felony for criminal history purposes."

3. Consolidating the firearm possession by a convicted felon statutes (K.S.A. 21-4202, 4203 and 4204) into a single statute, with a 10-year period from conviction of a felony or release from imprisonment for a felony, a level 8 nonperson felony.

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Presentation to the Senate Judiciary Committee

Thursday, January 21, 1999

Commissioner Albert Murray

Major Initiatives for FY 1999 and FY 2000

1. Putting the Community plans into ACTION

Since October of 1997, close to 1,000 people across Kansas participated in a community planning process to identify and address the needs of juveniles at the community level, per the requirements of the Juvenile Justice Reform Act of 1996. For the past year, training events and on-going technical assistance were provided by JJA to give the 29 teams the necessary assistance and support to develop the comprehensive plans required in legislation. The Juvenile Justice Authority (JJA) sponsored 34 regional training events at which teams were given information, data and program resources that would be useful to them in their plan development.

In an effort to keep the planning initiative a high priority, a stringent timeline was developed for the planning teams to attend the training, compile and analyze data, assess local program needs and prepare the district's comprehensive strategic plan. I am pleased to announce that as of early December 1998, all 29 comprehensive strategic plans had been submitted to this agency.

JJA staff are presently in the process of conducting an analysis of each of the plans. The purpose of this thorough review is

- ❖ to ensure that all the necessary requirements of the plans have been addressed
- ❖ to compile a detailed assessment as to the communities' determination of risk factors
- ❖ to compile gaps in resources, program needs
- ❖ to develop the community's recommendations to meet those needs.

It is projected this analysis will be completed in February, 1999.

Sen. Judd
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Throughout this year long planning process JJA central office staff routinely attended numerous community planning team meetings, public hearings, editorial board meetings, county and city official meetings, and special events to provide information and support for the local planning process. It cannot be overstated the number of hours, the effort, the energy and the time Kansans have volunteered to complete this planning initiative. I have been so thoroughly impressed with the level of dedication and commitment I have seen across the state in all the districts among the conveners, facilitators, key leaders, local officials and close to 1,000 planning team members in this planning endeavor. The communication and collaboration I have first hand observed at the community level has been outstanding. They have truly stepped up to the challenge of addressing the needs of **their** youth in **their** communities.

Each strategic plan is to address specific program components as set forth by the reform act. This include prevention programs geared toward improving the ability of youth to bond with healthy, positive peer groups and adults. It also includes juvenile intake/assessment, local detention services, and community-based graduated sanctions for juvenile offenders such as juvenile probation, intensive supervision, electronic monitoring, drug testing, out-of-home placements, and aftercare services.

Some of the preliminary observations of our review of the comprehensive plans are:

- Community plans are placing a high emphasis on the need for prevention programs.
- Intake and Assessment is being identified as having a major role in the plans.
- There is a need for case managers to have a structured decision making instrument and process to determine the appropriate types of services, structure, and supervision that would best benefit the juvenile offender.
- Reported perhaps most often and uniformly from the community planning teams was the lack of a juvenile justice information system has been a barrier in the collection of juvenile justice data. Those who work with the juvenile justice system acknowledge the critical need to continue to develop a statewide juvenile justice information system.
- In some of the urban areas the need reported is the enhancement of existing graduated sanction programs rather than developing a large number of new programs. Smaller districts identified greater gaps in program services and see the need for more programs.
- Reported in almost all plans was the need to expand local bed capacity for out-of-home placements, and in particular, the need for out-of-home placements in the western part of the state.

- Many teams reported the need for local juvenile justice system coordination at the local level, particularly among service providers, courts and case managers.

The fiscal impact of the plans is still being analyzed. It is important to understand that the funding identified in the plans encompasses more than state funding. Grants, other state streams of money outside of the JJA, local funding resources as well as private resources were included in the recommendations within comprehensive plans. The JJA will use a formula based on communities' level and type of juvenile crime as its mechanism to determine the percentage of state funds each community may receive for programs within the strategic plans. As set forth in the Governor's Budget, \$7,329,440 million in new money is recommended for funding of the first year's priorities within the comprehensive plan programs. Of that money, \$4 million is to be used from the Children's Health Care Fund for prevention programs.

There has been extensive work done by the community planning teams in a short period of time to fulfill their commitment required of them in House Substitute for Senate Bill 69. They are looking with great interest at the degree to which the state will support this initiative through adequate funding of the comprehensive plans. We will be working closely with the Legislature over this session to provide the necessary information to ensure this can be accomplished.

2. EXPANSION OF CAPACITY AT JUVENILE CORRECTIONAL FACILITIES

The plan to build a 225- bed maximum security and diagnostic and classification center is an important step toward the agency's commitment to providing a cohesive, comprehensive juvenile correctional system that realizes the objectives set forth in the Reform Act. It is also in acknowledgement and response to the accelerating incidences of serious and violent crime being perpetrated by a younger segment of the general population.

One of the tasks inherent to the development of the state's overall juvenile justice strategic plan was a re-evaluation of the role(s) that the existing facilities should play in consideration of the revised system mission and the implementation of the new placement matrix. The facilities master plan, completed last year, charted a path of facility development designed to best serve the goals and objectives of the Juvenile Justice Reform Act.

The master plan took into consideration an analysis of juvenile offender population projections and the mandatory lengths of stay articulated in the new Legislatively mandated placement matrix for juvenile offenders which will become law on July 1, 1999. It also analyzed the best use of the existing correctional facilities.

The master plan concluded the following:

- ❖ There will be a long-term increase in the demand for juvenile correctional facility (JCF) bed space.
- ❖ The bed space will need to be constructed to house increasingly volatile and dangerous youth.
- ❖ The primary mission of the JCF's must provide for public safety by providing commitment capacity for the most serious, violent and chronic offenders.
- ❖ The system should be designed to house medium to maximum-security classification juvenile offenders.
- ❖ Re-constitute the existing facilities within a system of dedicated, classification-based facilities.

There are two basic reasons for proceeding with the project outlined in the Governor's budget:

1. There is a compelling need for an operational efficient maximum-security facility that does not currently exist.
2. The Reform act appropriately mandates the development of a diagnostic and classification center that does not currently exist.

With funding for FY2000, the JJA intends to proceed with architectural planning for a 225-bed combined maximum security/diagnostic classification facility.

The facility will play an integral role in the evolution of the JJA mission by addressing four JJA system-wide needs.

1. It will provide a single, centralized processing center for all offenders
2. Will establish a dedicated maximum-security juvenile correctional facility.
3. It will provide for acute medical services.
4. It will establish a program and living facility for pregnant female offenders during the third trimester.
5. It will allow the adoption of a classification based juvenile correctional facility system, in which offenders will be incarcerated in the facility most appropriate for them, based on their need for structure and security. The previous system placed juveniles in the three facilities for males primarily according to their age levels.

The facility's 225 beds will be divided among three housing components.

- ❖ 60-bed diagnostic/classification center
- ❖ 150-bed maximum-security facility and,
- ❖ 15-bed infirmary. (Up to 5 beds in the infirmary may be used to house pregnant female offenders on an as-needed basis.)

The overall design blends the consolidated complex and the campus-style concept.

The projected cost for the facility:

Total project costs--\$38,296,085

Total operational costs--\$9,965,044

Annual costs:

FY2000: \$2,185,297 for planning

FY2001: \$19,913,515 for construction

FY2002: \$16,197,274 for construction

The Governor's budget recommendation for FY2000 is \$2,185,297 million from the State Institutions Building Fund for the cost involved with architectural planning. The Governor has also recommended setting aside \$6 million from the State Institutions Building Fund for the JJA to use on constructing the facility, which would begin in FY2001.

3. RE-CLASSIFICATION OF YOUTH SERVICES SPECIALIST POSITIONS

Another initiative JJA has undertaken since it began on July 1, 1997, is the continued professionalization of the direct care staff in the four juvenile correctional facilities. The Governor has recommended that \$595,120 be used to upgrade the youth services specialist positions within the four juvenile correctional facilities. This upgrade would affect 376 direct care staff (64% of JJA employees) at the following locations:

- ❖ 77 – Atchison
- ❖ 49 – Beloit
- ❖ 86 – Larned
- ❖ 164 - Topeka

The rationale behind this recommendation is that with Juvenile Justice Reform, the requirements of the job performed by the youth service specialists include more complex and different job responsibilities and reflects the shift at the facilities from a social welfare model to a correctional model, in which juveniles are expected to be held more responsible for making changes in their lives that will benefit themselves and the rest of society. Staff will have greater responsibility with regard to maintaining security at the institutions and as the population trend continues within our facilities, will be required to deal with juveniles with complex needs.

The JJA is recommending two classification series:

1. juvenile correctional officer positions that emphasize case management
2. juvenile correctional specialist

The final stages of approval by the Department of Personnel Services, a division of the Department of Administration, is underway. It is our belief that the position upgrades will help reduce turnover and retain quality employees within the facilities, as well as help the agency attract well-qualified new staff as positions open. This would make the juvenile correctional facility staff positions more comparable to positions at the Department of Corrections as they exist in the adult system's current pay structure.

4. JUVENILE CORRECTIONAL FACILITY OVERCROWDING

The Governor has recommended that \$748,313 be used over FY99 and FY2000 to provide for a 57-bed expansion at the Topeka Juvenile Correctional Facility (Topeka JCF.) To this end, an additional four FTE staff positions are recommended in the budget. Plans are underway to add additional beds to two units at Topeka JCF, in an effort to increase capacity and therefore, mitigate overcrowding that has been prevalent over the past three years at the three facilities for male juvenile offenders. These additional beds at the Topeka facility are designed as a temporary measure to address overcrowding until additional beds can be built. It will allow for a temporary capacity of 276 beds.

5. SUMMARY OF NECESSARY LEGISLATIVE PROPOSALS

In order to fully implement juvenile justice reform, we see a need for some language changes in the reform act. These changes are, in some instances, minor and technical changes, but they make a great difference in empowering the State to move forward with the spirit of reform. Therefore, the JJA proposes the following changes which I will submit to the legislature for consideration. A summary of the forthcoming proposals are as follows:

1. Juvenile Detention Facilities Fund K.S.A. 79-4803 (b)

This amendment gives the Commissioner sole authority to make decisions on the disbursement of appropriated juvenile detention facilities fund monies and strikes wording requiring approval by the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention.

2. Matrix K.S.A. 38-16-129

This amendment mandates the use of the matrix for **committing juveniles to the juvenile correctional facilities**. The change also allows for an exception when the District Court determines that there are compelling reasons based on evidence of aggravating or mitigating circumstances. The change also addresses departure procedures much like the adult system.

3. Trust Fund K.S.A.76-172

The proposal is a technical change of the statute. This change allows the Juvenile Justice Authority to receive and handle money belonging to and held in trust for juvenile offenders confined within a juvenile correctional facility and placed in the community. Previously this authority was vested with SRS when it had control over the state youth centers.

4. Battery on Law Enforcement K.S.A. 21-3413

This amendment ensures that a perpetrator convicted of battery on a juvenile correctional officer is given a prison sentence. Thus, the severity level of this crime is raised from a level 6 to a level 5. Currently the law allows for a juvenile offenders to commit a battery on a juvenile correctional officer and receive probation if convicted as an adult because of the presumptive probation requirement.

5. Escape from a Juvenile Correctional Facility K.S.A. 21-3810

This amendment ensures that an individual convicted for escaping from a juvenile correctional facility will serve an adult prison sentence. The proposal amends the statute to raise the penalty for escaping from a juvenile correctional facility to a severity level 5 crime. Presently, the penalties for escaping are levels 6 and 8 felonies and class A misdemeanors.

6. Juvenile Intake K.S.A. 38-1602

This proposal amends K.S.A. 38-1602 (1) to specify "75-7023" rather than "76-3202". This should correct the typographical error that currently exists within the statute.

7. Unlawful Sexual Relationship K.S.A. 21-3520

This proposal amends the above statute concerning unlawful sexual relations to include staff employed by juvenile correctional facilities as well as those supervising offenders on conditional release. The purpose of this change is to ensure that staff employed by the Juvenile Justice Authority or those contracting with this agency face a severe penalty for having sex with the juvenile offenders receiving services.

8. Changes in Juvenile Justice Reform Act to Comply with Adoption and Safe Families Act K.S.A. 38-1604 (d)

This proposal amends the above statute to require permanency hearings at 12 months for juvenile offenders who are in out-of-home placements to determine whether reintegration with the family is a viable option. For those children in out of home placement 15 of the last 22 months and where the court has not found that reintegration is a viable option, a prosecutor **must file** a case for termination of parental rights. The states are mandated to comply with this federal law which impacts Title IV-E funding. Last year the Child In Need Of Care Code in Kansas was amended to comply with the same requirement.