

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:10 a.m. on February 17, 2000 in Room 245-N of the Capitol.

All members were present except: Senator Harrington, excused

Committee staff present: Mary Galligan, Legislative Research Department
Russell Mills, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Judy Glasgow, Committee Secretary

Conferees appearing before the committee: Judge Tracy Klinginsmith
Senator Pugh
James Battese, Prairie Band Potawatomi Police Chief
Terry Scott, Prairie Band Potawatomi Police Dept.
Ron Hein, Indian Nations in Kansas

Others attending: See attached sheet

Chairman Oleen recognized Judge Klinginsmith, Jackson County District Court, who appeared before the committee to provide information on an amendment to **SB 425** which was passed out of the Judiciary Committee and is on the Senate calender. (Attachment 1). Judge Klinginsmith stated that he was offering this amendment to resolve a matter that was occurring before it became a larger problem.

Chairman Oleen encouraged members of the Federal and State Affairs Committee to participate in the trip scheduled on March 1 to visit Fort Leavenworth.

Chairman Oleen opened the hearing on:

SB 543 –Concerning Native American Indian tribal law enforcement officers

Legislative staff gave a brief review of the bill for committee members. Theresa Kiernan stated that this bill would allow tribal officers assisting state, county or city law enforcement agency to have the same powers and duties of such state, county or city agency.

Chairman Oleen recognized Chief Battese, Prairie Band Potawatomi Police Chief, a proponent to **SB 543**. Chief Battese stated that this bill would be a bridge toward cooperation and communication between the State and tribal police officers. He stated that this bill would show the rest of the nation that States and tribes can get along. Chief Battese urged the committee to favorably consider this bill.

Chairman Oleen called on Terry Scott, Officer of the Tribal Police for the Prairie Band Potawatomi Nation. Officer Scott, a proponent of **SB 543**, gave a brief history of the types of training that the officers of the Tribal Police have completed. (Attachment 2). He stated that tribal police basic training is on par with any law enforcement agency in Kansas and that they receive updated training as needed. Officer Scott noted that although the department is only two years old it has a mix of older officers with a great deal of experience and younger officers who need such maturity to guide them in the current career development. Officer Scott stated that tribal police have been requested on occasions to respond to off-reservation incidents to have the same powers and duties wherein a deputy or trooper was not available or needed assistance. (Attachment 3) He stated that the passage of **SB 543** will provide additional law enforcement assistance if and when it's needed at not cost to the requesting agency. He ask for favorable consideration of **SB 543**.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE, Room 245-N
Statehouse, at 11:10 a.m. on February 17, 2000.

Chairman Oleen recognized Ron Hein, representing Indian Nations in Kansas, as a proponent. Mr. Hein stated that Indian Nations in Kansas (INIK) supports **SB 543** which provides for cross deputization under certain circumstances. (Attachment 4) Mr. Hein stated that this bill would be one more step in an ongoing effort to improve relationships and to have better intergovernmental cooperation. Mr. Hein urged the committee to approve **SB 543**

After discussion and question from the committee concerning the liability of the officers Senator Gooch moved to amend the bill to include immunity on line 19. Senator Vratil seconded the motion. The motion passed.

Senator Gooch moved to pass the amended bill favorably to the full Senate. Senator Biggs seconded the motion. The motion carried.

Senator Oleen requested the introduction of a bill by County Clerks concerning number of times delinquent tax notices are mailed. Senator Biggs moved to introduce the bill. Senator Vratil seconded the motion; the motion carried.

Chairman Oleen called the committee's attention to information received by the committee on **SB 322** by the Department of Corrections regarding how other states dealt with some of the issues. (Attachment 5 and 6) After discussion by the committee Senator Biggs moved to amend the bill to include notification by parolee board before the release. Senator Vidricksen seconded the motion. The motion carried.

Senator Vratil moved to amend the bill to limit release to those who commit a non-violent crime. Senator Vidricksen seconded the motion. The motion carried.

Senator Gooch moved to pass amended **SB 322** favorably to the full Senate. Senator Jones seconded the motion. The motion passed.

The meeting adjourned at 12:10 p.m. The next meeting will be February 21, 2000 at 11:00 a.m.

**SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST**

DATE: FEB-17, 2000

| NAME | REPRESENTING |
|-------------------------------|--|
| James Battese | PB Pol. Tribal Police |
| Wm J. Scott | P.D. Potawatomie Tribal Police |
| Etan Parsons | Smart & Associates |
| Dale Durham | Jackson County Sheriff's Office |
| Tracy K. [unclear] | District Court - 27th Jd. - Bristol |
| David Pugh <u>M</u> | PBP Nation |
| MARK BURGHAUT | WESTERN ASSN. |
| Verna Weber | Dept. of SRS |
| Laurie Williams | Governor's Office |
| Jodi Spidle | Nat'l. American Affairs |
| Joel Hutchings | Citizens |
| TRACY DIEL | State Gaming Agency |
| John C. Peterson | Hawthorn |
| Joel Bottelby | KSA / KPOA |
| Ron Hein | Indian Nations in Kansas |
| Mark Godwin | Horn, War |
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To Members of the Senate Federal and State Affairs Committee:

**Re: Senate Bill 425
Uniform Enforcement of Foreign Judgments Act
K.S.A. 60-3001, et seq.**

Dear Committee Members:

I appear before you to respectfully submit an amendment to the referenced Act to clarify the meaning of the term “foreign judgment.” The Act presently defines a foreign judgment as

**” any judgment, decree or order of a court of the United States or any other court which is entitled to full faith and credit in this State...”
K.S.A. 60-3001.**

A review of case annotations contained in the Act and the fact that the Act is contained in Chapter 60 of our statutes governing civil procedures indicates that the purpose of the Act is to assist enforcement of foreign civil judgment.

Recently district court clerks have been receiving requests from tribal courts to file judgments entered by tribal courts for violations of tribal traffic regulations as foreign judgments. It is my understanding that tribal codes refer to these as regulatory civil judgment. Notwithstanding the terminology utilized by tribal codes, such judgments are penal or regulatory in nature as they are imposed for violation of tribal traffic codes, just as fines are imposed in state district courts for violations of state traffic codes. As such, the amounts to be exacted are arbitrarily established to deter certain conduct and to penalize a defendant for an act, omission or conduct against the public for violation of the requirements of a

**Sen. Federal & State Affairs Comm
Date: 2-17-00
Attachment: # 1-1**

statute, code or regulation. A civil judgment, on the other hand, is remedial in nature, and results from an action brought to obtain compensation or indemnity for the act or omission of a person or entity for breach or violation of a duty that results in damage or injury to another person or entity. A civil judgment is curative and compensatory, rather than punitive in nature.

I do not believe the intent and purpose of the Uniform Enforcement of Foreign Judgments Act is to assist foreign jurisdictions to exact collection of punitive or regulatory judgment, nor do I believe the Kansas District Courts should be utilized by a foreign jurisdiction for that purpose. I therefore respectfully request your consideration for the following amendment to S.B. 425:

Session of 2000

SENATE BILL No. 425

By Committee on Judiciary

1-18

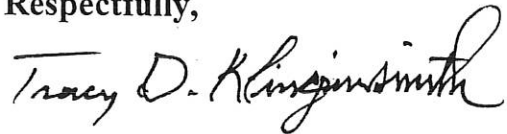
10 AN ACT concerning civil procedure; relating to uniform enforcement of
11 foreign judgments act; filing and status of foreign judgments; amend-
12 ing K.S.A. 1999 Supp. 60-3002 and repealing the existing section.
13

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

15 Section 1. K.S.A. 1999 Supp, 60-3002 is hereby amended to read as
16 follows: 60-3002. A copy of any foreign judgment authenticated in ac-
17 cordance with the act of congress, the statutes of this state or certified in
18 accordance with the statutes of the state in which the judgment was ren-
19 dered, may be filed in the office of the clerk of any district court of this
20 state. Such copy must be filed by an attorney licensed to practice law in
21 the state of Kansas. The clerk of the district court shall treat the foreign
22 judgment in the same manner as a judgment of the district court of this

23 state. A judgment filed as provided by this section has the same effect
24 and is subject to the same procedures, defenses and proceedings as a
25 judgment of a district court of this state and may be enforced or satisfied
26 in like manner, ~~except that, if, at the time of filing of the foreign judgment~~
27 ~~in this state, the judgment is enforceable in the state or jurisdiction where~~
28 ~~it was originally rendered, the statutes of limitations contained in article~~
29 ~~5 of chapter 60 of the Kansas Statutes Annotated shall not be a defense~~
30 ~~to the judgment or the filing of the foreign judgment in this state.~~
31 except that, no judgment, decree or order arising out of any traffic code
32 or any code that is criminal, quasi-criminal, or purely regulatory in
33 nature shall be enforced under the provisions of this act.
34 Sec. 2. K.S.A. 1999 Supp. 60-3002 is hereby repealed.
35 Sec. 3. This act shall take effect and be in force from and after its
36 publication in the statute book.

Respectfully,



Tracy D. Klingensmith, Chief Judge
Second Judicial District
February 17, 2000

PRAIRIE BAND POTAWATOMI POLICE DEPARTMENT

February 16, 2000

First, we would like to express our appreciation for the opportunity to appear before this committee. This permits us an avenue to provide information concerning the Tribal Police Department and how our department has interacted with other law enforcement agencies in the past and perhaps some insight as to what the future holds.

First, we'd like to give you a brief history of the Tribal Police for the Prairie Band Potawatomi Nation.

The tribal police department is slightly over two years old and came into being as a result of several factors, principally, the opening of Harrah's Casino. In the gaming compact with the State of Kansas, the Tribe is **required** to maintain a police department. Certain stipulations are made, including educational requirements for tribal police officers. These requirements mandate that tribal police officers meet the same training requisites that every other law enforcement officer in Kansas must meet.

Our officers have been trained at K.L.E.T.C. in Hutchinson, Topeka PD police academy, Federal law enforcement training center in Brunswick, Georgia, the North Texas Regional Police Academy in Wichita Falls, Texas and the Kansas Highway Patrol Training center in Salina. Clearly, tribal police basic training is on a par with any law enforcement agency in Kansas.

Tribal police officers recently completed a program sponsored by the U.S. Department of Interior, Bureau of Indian Affairs in which tribal police officers were given training and certified as "Special deputies of the Bureau of Indian Affairs". This permits tribal officers to enforce certain Federal criminal codes on the reservation irrespective of the perpetrator's race, tribal affiliation or lack thereof.

Our position on training is simply that competent training equips officers to better serve the citizens we've sworn to protect.

We would next like to discuss the experience of the Tribal Police Department. Officer experience belies the fact that this department is only two years old.

Beginning with the Chief of Police, James Battese, who began his career in law enforcement with the Jackson County Sheriff's department. Mr. Battese served as undersheriff to Sheriff Don Collins, leaving that position to accept employment with the Santa Fe Railroad as a criminal investigator for the Railroad Police. In that capacity, he was commissioned as a law enforcement officer with statewide authority in Kansas, Oklahoma, Texas and Colorado. In his position as a railroad special agent, he found it necessary to work harmoniously with state, local and federal law enforcement agencies. Mr. Battese retired from that position to become Chief of Police for the Tribal Police Department. His experience in law enforcement exceeds thirty years.

Lieutenant Joe Morris has been with the Tribal police for slightly over six months. Joe came to us after serving a short while with the Jackson County Sheriff. His prior law enforcement experience came from his service as an enforcement officer for the United States Department of Interior, Bureau of Land Management. Lieutenant Morris served in Nevada, Utah and until his retirement, was stationed in Alaska. His experience in law enforcement exceeds twenty years.

Sen. Federal & State Affairs Comm
Date: 2-17-00
Attachment: # 2-1

Detective/Wildlife Conservation Officer Terry Scott came to the Tribal police in May of 1999. Detective Scott had retired from the Kansas Highway Patrol attaining the rank of Lieutenant Colonel and serving as Assistant Superintendent under Colonel Lonnie McCollum, for the first two years of Lonnie's administration. Prior to service with the K.H.P., he had served as a police officer for the City of Wellington. His experience in law enforcement exceeds thirty two years:

Officer Herbert Nance recently accepted employment with the Tribal police, having retired from the Gainesville Police Department, in Gainesville, Texas. Officer Nance had attained the rank of Sergeant, shift supervisor and has over twenty years of law enforcement experience.

Officer Verle Creek has been employed for slightly over one year with the Tribal police. While reasonably new to this area of law enforcement, Verle had served for over five years as a communications operator with the Kansas Highway Patrol. He brought expertise which proved invaluable in setting up a law enforcement communications center and training dispatchers to handle those duties. His experience in law enforcement exceeds six years. Note: The tribal police communications center was rated in the top 10% in the state in operational protocol, adherence to NCIC policies and procedures and overall accountability by Kansas Highway Patrol Sergeant in Charge of NCIC, Larry Warders.

The remaining officers employed by the Tribal police are young officers, some with prior experience, others with none, but each of whom has successfully completed basic law enforcement training as statutorily required. These officers were chosen for their willingness to learn and their desire to become professional law enforcement officers.

This information illustrates clearly that, although the Tribal Police Department is a young agency, those responsible for its administration are not neophytes. The Tribal Police Department has become a mix of older officers with a great deal of experience and younger officers who need such maturity to guide them in their career development. They are individually and collectively dedicated to leading the agency into the future through training and competent leadership to achieve proficiency and professionalism on a level with any law enforcement agency in Kansas.

Following are some of the agencies with whom we've worked cooperatively in the past and will undoubtedly do so in the future:

Federal Alcohol, Tobacco and Firearms: This agency was assisted in an investigation by Tribal Police involving illegal firearms, manufacturing silencers and possible sale of military weapons. This investigation resulted in a federal parole violation being filed against the suspect.

Federal Bureau of Investigation: We are currently working with the FBI investigating a burglary in which Indian artifacts were stolen and possibly sold out of state.

Kansas Bureau of Investigation: KBI Agents were requested to assist Tribal officers with a "Meth Lab" which had been discovered by Tribal officers on the reservation. Special Agent Supervisor, Currie Myers, Agent Patti Bottorff and Chemist Kamala Hinnergardt responded and with assistance from Tribal officers processed the

crime scene. This resulted in the arrest of two persons for manufacturing illegal drugs. Cooperation between the agencies was exemplary.

Topeka Police Department; Topeka PD has afforded Tribal officers an opportunity to attend their basic training academy, which we have accepted in instances in which we would have a longer wait for KLETC to begin a class. Additionally, Tribal officers have worked with Topeka PD officers to investigate crimes which were discovered on the reservation, but were initiated or carried out within the City of Topeka. Tribal officers have also served warrants issued by the City of Topeka and taken the suspects into custody until Topeka officers could transport them to a correctional facility.

United States Marshal's Fugitive Task Force; Tribal police were notified by Officer Beth Mechler that they were seeking a person believed to be on the reservation for parole violation. This information was provided at approximately 2:00 P.M. At 10:30 P.M. on the same date, the wanted person was taken into custody and delivered to Officer Mechler. Tribal officers have, on several occasions, been requested to be on the look out for offenders who are targeted by the Task Force and have assisted Task Force officers in building searches for wanted suspects.

Shawnee County Sheriff: Tribal officers have on several occasions served arrest warrants and delivered suspects to Shawnee County Deputies. Our proximity to Shawnee County lends itself to criminals moving freely back and forth. Detectives from the Sheriff's office and the Tribal police detective work closely in those areas affecting both jurisdictions.

Major Case Squad: This multi-jurisdictional body is comprised of officers from city and sheriff's departments in the area surrounding Shawnee County. As the name implies, the M-Squad can be called upon by a participating jurisdiction to assist with any major crime. Tribal officers have been accepted as members of the M-Squad and participate in their training sessions.

Kansas Highway Patrol: Tribal officers have on numerous occasions assisted State Troopers in performing their duties from assisting at accident scenes to providing "back up" for the trooper on automobile stops. The K.H.P. provided training for the Tribal canine and Officer Creek, his handler.

Kansas Fire Marshal's Office: Tribal officers aided The Fire Marshal's agent in his investigation of a residence which sustained an explosion caused by a broken propane line.

Kansas Parks and Wildlife: Area supervisor Rob Ladner and the Tribal conservation officer have been clarifying and negotiating the needs of each agency regarding enforcement of Kansas statutes and Tribal code which govern hunting on the reservation. It is the intent of both agencies to develop an understanding which would achieve the ultimate goal of effectively managing mutual natural resources to become a reality. Both agencies accept that we must work together to accomplish this goal.

Other Criminal Justice Agencies: The Tribal police have in the past and will continue in the future to work cooperatively with courts, prosecutors, social service agencies, corrections and any others, to assure that the rights and safety of citizens, including those accused of a crime, are protected to the best of our ability

Jackson County Sheriff: Officers of the Tribal police work continuously with this agency. Everything from court ordered civil process, arresting and holding perpetrators, providing cover officers for service of search warrant's in which the

suspects were known to be armed and other areas in which they've requested our assistance. While there is animosity between these two agencies, the officers of the Tribal police have never allowed that animosity to compromise in any manner, their professional responsibilities as law enforcement officers, nor have they permitted those areas to jeopardize the safety of citizens insofar as present authority will permit.

Lastly and most importantly, we would point out the present operating procedure, Tribal police do have authority to halt persons suspected of committing a crime and if probable cause exists, to hold such person, while on the reservation, until they can be delivered to the Jackson County Sheriff or the Kansas Highway Patrol. This scenario has occurred more than 100 times during 1999. The deputy or the trooper is called away from whatever activity he was involved in, makes the arrest of the suspect(s) transports him/her to the county jail and becomes the arresting officer of record. In actuality, the Tribal officer will prepare an arrest report and any other documentation needed for court presentation and will be the one to testify in court concerning the events which led up to the arrest of the individual. The deputy or trooper then, becomes merely a prisoner transport officer. They follow the exact same procedure that the Tribal officer would follow, given full police authority, but must spend three to five hours of his/her time writing a report, going through booking procedures, etc. Some of these reports the Tribal officer has already done, the remainder, which he could do, given authority. It is estimated that Jackson County will devote between 300 and 500 man-hours to this activity during calendar year 1999 and this figure most certainly will go up in the future. Tribal police will become more effective in their efforts to discourage drinking and driving and other criminal activities on the reservation.

In addition to these on-reservation incidents, tribal police have been requested on many occasions to respond to off-reservation incidents wherein a deputy or trooper was not available or needed assistance.

These requests have varied in nature including, to name a few: An intrusion alarm at an animal clinic in Hoyt that had been burglarized on at least three occasions; A hit and run accident in Mayetta; Providing a back up officer for a Jackson County Deputy in which four persons were arrested in a stolen car; Assisting troopers on US 75 highway investigating accidents; Providing cover officers for Jackson County while they were executing a search warrant and many others. As law enforcement officers, we cannot in good conscience refuse to respond to a call for assistance from another law enforcement agency even though in responding, we are placed in a tenuous position by not having been officially recognized as a law enforcement officer by Kansas Statute.

In summary, we are asking this committee to recognize what is best for the citizens of Kansas by approving Senate Bill 543. In doing so, the legislature simply legitimizes what is already being done.

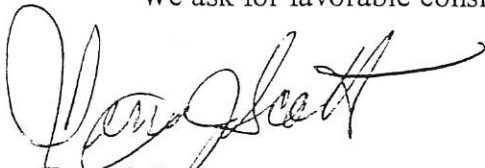
We have officers working 24 hours a day and can respond to an incident immediately adjacent to the reservation faster than the primary agency in most cases, if that agency should choose to request that we do so. Situations involving domestic abuse, child abuse, fights, disorderly conduct, automobile accidents and others in which there is an immediate danger to the safety of citizens on or off of the reservation would clearly be better served.

Passage of SB 543 will not in any manner compromise the authority of an existing law enforcement agency. It will, in fact, provide additional law enforcement assistance if

it's needed, when it's needed, all at no cost to the requesting agency. The requesting agency makes the determination whether to utilize the services offered by the Tribal Police.

The Prairie Band Potawatomi Tribal Police Department has, at present, eleven certified law enforcement officers who combine a great deal of experience with the vitality of youth. Tribal police are as well trained and formally educated as any other Law Enforcement officer in Kansas. To continue to make this resource unavailable in times of need to other law enforcement agencies is not in the best interest of the citizens of Kansas.

We ask for favorable consideration of SB543. Thank You.

A handwritten signature in cursive script, appearing to read "Terry J. Scott".

Terry J. Scott
Detective and Wildlife Conservation Officer
Prairie Band Potawatomi Tribal Police Department

Attachments:

(AC) Tribal Gaming Commission. "Tribal Gaming Commission" means the Tribal Gaming Commission established by the Tribe as the agency primarily responsible for regulatory oversight of Class III gaming conducted by the Tribe.

(AD) Tribal Gaming Regulations. "Tribal Gaming Regulations" means those regulations adopted by the Tribe to regulate Class III gaming conducted pursuant to this Compact, as provided in Section 7 and attached hereto as Appendices A and B.

(AE) Tribal Land. "Tribal Land" means Indian land as defined in the IGRA .

(AF) Tribal Law. "Tribal Law" means the Tribal Gaming Ordinance, Tribal Gaming Regulations, as amended hereafter and this Compact, as amended hereafter.

(AG) Tribal Law Enforcement Agency. "Tribal Law Enforcement Agency" means the police force of the Tribe established and maintained by the Tribe pursuant to the Tribe's powers of self-government to carry out law enforcement. Members of the Tribal Law Enforcement Agency shall attend the Kansas Law Enforcement Training Center, the Highway Patrol Training Center or receive comparable training approved by the State Gaming Agency or the federal government.

Section 6: Persons Bound.

(A) State. Where the name the "State" is used in this Compact as a part thereof, such name shall be construed to include all the individuals, corporations, partnerships, enterprises, associations, districts, administrative departments, bureaus, political subdivisions, agencies, persons, permittees, and all others using, claiming or in any manner asserting any right or power under the authority of the State.

State of Kansas
Law Enforcement Training Commission

2-7

This is to certify that

MICHAEL K. BOSWELL

600142756

*having successfully completed all of the prescribed requirements
therefor is hereby awarded this certificate as a*

**Full-Time
Law Enforcement Officer**

3/5/99

Date

David Wil

Chairman

6-6



TOPEKA POLICE ACADEMY

This Certifies that

Kenneth S. Dolan


has satisfactorily completed the full course of instruction in

Law Enforcement Basic Training Course

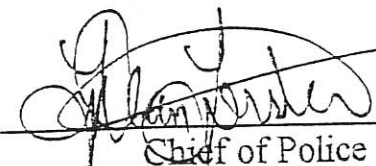
given at the Topeka Police Academy from June 28, 1999 to October 1, 1999

and in view of this achievement is awarded this Certificate of Completion this

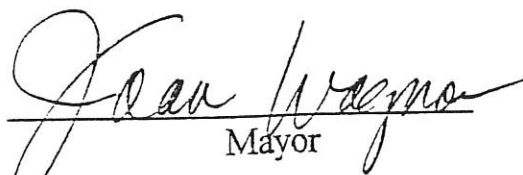
First day of October in the year of our Lord One Thousand Nine Hundred and Ninety-Nine.




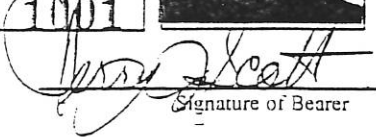
Director of Training



Chief of Police



Mayor

| | | | |
|----------------------------|-----------------|--------|---|
| Date of Birth | Height | Weight |  |
| 02-06-44 | 6-0 | 185 | |
| Hair | Eyes | | |
| Brown | Blue | | |
| Soc. Security No. | Expiration Date | | |
| 512424882 | 09-17-02 | | |
| Title or Position | | | |
| Police Officer | | | |
| Bearer's Agency/Department | | | |
| Prairie Band Potawatomi | | | |
| Card No. OLES- | | | |
| | | | 1001 |
| 09-17-00 | | |  |
| Issue Date | | | Signature of Bearer |

**BUREAU OF INDIAN AFFAIRS
OFFICE OF LAW ENFORCEMENT SERVICES**

This Presents That

Terry Scott

*IS, BY AUTHORITY VESTED IN ME BY LAW, COMMISSIONED
A DEPUTY SPECIAL OFFICER OF THE BUREAU OF INDIAN AFFAIRS
AND AUTHORIZED TO CONDUCT INVESTIGATIONS AND EXERCISE
AUTHORITY DELEGATED BY VIRTUE OF 25 U.S.C. 2803.*


DIRECTOR/DISTRICT COMMANDER

KANSAS HIGHWAY PATROL
NCIC Terminal Operators Permit
Certificate of Completion and Competency

Mickey J. Martinez

of the Potawatomi Tribal Police ^{NAME} _{has successfully}
completed a written examination in the practices and procedures of the NCIC
Operating Manual and is hereby certified to operate a data terminal to access the
NCIC system. This certificate shall be valid for a period of two (2) years from
the date shown.

Jan 12, 1999

Kon Quatice
NCIC Control Terminal Officer

Kenny M. Hardy
DATE
NCIC Instructor/Certifier

HP 205

memo

TO: File


FROM: 63

CC: 62

DATE: 11-3-99

RE: Case #568

Case #568 was handed off to Detective Lynn Weddle of the Topeka Police Department. Evidence which had been in my custody, was delivered along with all reports other pertinent information. For our purposes, unless we receive additional information, this case is closed.


T. Scott
Investigations

From: Rob Ladner <robl@wp.state.ks.us>
To: "scottx303@juno.com" <scottx303@juno.com>
Date: Wed, 8 Sep 1999 16:53:00 -0500
Subject: meeting minutes- Conservation Code

Terry, Don't know if you can open WORD so here it is.

Conservation Code for the Prairie Band Potawatomi Nation
August 18, 1999

A meeting was held between Terry Scott, tribal Game Warden and myself (Rob Ladner) at the Wildlife and Parks Region 2 Office in Topeka. Scott had earlier been given a copy of a letter with regards to topics of

discussion with tribes in Kansas. The main issues were the recognition of game tags that could be issued by tribes for big game taken on reservation and jurisdiction for non-tribal members on reservations. Scott and I addressed the issues specific to their reservation. Scott provided written justification for their concerns. Our goals are to: Clarify enforcement jurisdiction: Tribal members, non-Indians, fee land and tribal land. Recognition of tribal game tags on and off the reservation.

Scott advised the Potawatomi Tribe have a conservation code in place. Current code does not regulate non-tribal members. All fish and game violations are infractions. All fish and game violations fall under civil authority not criminal. Scott would like to see the conservation code updated to include all other people hunting and fishing within the exterior boundaries of the reservation through concurrent jurisdiction. The Potawatomi are planning to license only tribal members with few exceptions approved by the council. Non-Indians on fee lands would fall under the jurisdiction of the state. Non-Indians on tribal land would fall under tribal jurisdiction. Tribal members would fall under tribal jurisdiction on all lands within the exterior boundaries of the reservation.

PRARIE BAND POTAWATOMI TRIBAL POLICE DEPARTMENT

| CASE NUMBER | VICTIM | OFFENSE | DATE |
|-------------|-----------------|----------------------------------|-----------------|
| 99-00546 | State of Kansas | Manufacturing Methamphetamine | October 8, 1999 |

SUPPLEMENT

At approximately 0800 hours on October 8, 1999, I reported for duty to Tribal Police headquarters. I was informed that Officer Dunn was requesting assistance at 158th and "J" road. I proceeded to that location and contacted Officer Al Dunn who was walking east on 158th. Officer Dunn gave me a camouflage color hooded, zippered sweatshirt that he advised that he had found in the woods and requested that I hold onto it for him. I did so, returning it to him on October 9, 1999 at Tribal Police Headquarters. The sweatshirt was in my possession from the time it was delivered to me by Officer Dunn until I returned it to him.

Officer Dunn informed me that the residents of 7164 158th road had called him to this location. The residents had reported that there were persons unknown prowling the wooded area to the north and to the west of the house. Officer Dunn reported to me that [REDACTED] who resided at this residence had accompanied him into the wooded area to the west of the house and was still out in the woods. Officer Dunn and I returned to the house and I contacted [REDACTED] and asked her where exactly, had the prowlers been seen. She indicated the wooded area to the north of the residence.

By this time, officers Bosswell and Diehl had arrived and began to assist in the search. In the wooded area immediately north of the house, a large olive green canvas tarpaulin was discovered. This tarpaulin was large enough to conceal a person. This tarpaulin was large enough to hide a person and had a bulge which could have easily been a person hiding underneath it. I asked Officer Dunn to pull back the tarpaulin, which he did, exposing several soft drink containers containing a wet granular substance that I could not identify, and a one-gallon plastic container with a small hole punched in the lid. We continued searching to the west and found a large olive green canvas tent, which was large enough to conceal a person. I asked Officer Boswell to move the tent so we could see under it. As he began to do so, he exposed several cans of starting ether. The cans had holes punched in them, which I knew to be a method of extracting the ether commonly done in the manufacture of methamphetamine. Also exposed was an open five-gallon plastic container with residue which appeared to be residual from red phosphorus, another ingredient sometimes used to manufacture methamphetamine. We continued west through the woods and discovered a blue plastic tarpaulin large enough to conceal a person with something causing a large bulge under the tarpaulin. Officer Dunn was requested to remove the tarpaulin and in doing so, exposed a large brown plastic trash can. As Officer Dunn removed the tarpaulin, a very strong chemical odor could be detected coming from the trashcan, from my position, several yards away.

At this point, I requested the officers to return to the area just back of the [REDACTED] residence. We discussed the information available to us and I asked

File Copy

PRARIE BAND POTAWATOMI TRIBAL POLICE DEPARTMENT

| CASE NUMBER | VICTIM | OFFENSE | DATE |
|-------------|------------|---------------------|----------|
| 9900387 | [REDACTED] | Unattended Children | 07-16-99 |

NARRATIVE REPORT

At 1356 hours on July 16, 1999, I was contacted by the Tribal Police dispatcher and advised that she had received a report of two young children left alone and unattended at [REDACTED] 174th Road.

I went to that residence and interviewed two children, [REDACTED] and [REDACTED] ages 9 and 7 respectively. [REDACTED] advised that her mother and father, [REDACTED] and [REDACTED] both worked for the Tribe and had gone to work about seven o'clock this morning. She further advised that she and her sister had been going to a babysitter until this week and that something happened and they had been staying home this week.

I contacted Eric Sanderson, Family Services counselor, and advised him of my findings. He was in court on another matter and advised that he would contact me when he was finished there.

Children are described as follows:
[REDACTED] IF 9, DOB 02-02-90
[REDACTED], IF 7, DOB 12-23-91

End of report.



Tribal Officer: Terry Scott

Badge Number: T63

Page 1 of 1

~~CONFIDENTIAL~~
~~CONFIDENTIAL~~

MEMO

TO: Terry Scott

FROM: Dee Macey

DATE: 11/23/1999

RE: Statistics

CC: Chief Battese, Joe Morris

Sir:

Here are the Statistics you asked for. Let me know if you need more detail, or agency assist numbers.

Dee

Prairie Band Potawatomi Tribal Police

arrests/ given to Jackson County 1999

| January | February | March | April | May | June | July | August | September | October | November | December | total |
|---------|----------|-------|-------|-----|------|------|--------|-----------|---------|----------|----------|-------|
| 8 | 5 | 5 | 7 | 2 | 7 | 14 | 17 | 17 | 18 | 6 | | 106 |

February 22, 2000

Senator Lana Oleen
State Capitol Bldg. Rm. 136 N
Topeka, Kansas 66606

Dear Senator Oleen,

I am enclosing a copy of a report prepared in regard to the shooting of Officer John Shoen of the Jackson County Sheriff's Department. As you will see, this was a situation in which Tribal Police were deeply involved outside of the reservation without police authority to do so. It was, however, a situation which we could not back off of until we were properly relieved.

Tribal Police were the third police unit to respond. Tribal Police were the first police to arrive when the second officers were fired upon. Tribal Police extricated both officers who had been pinned down by gunfire, the second one at considerable risk to the Tribal officer, Chief Battese.

The Jackson County Sheriff has told Chief Battese that this bill is unnecessary, that she gives us that authority anyhow. This is blatantly untrue. Since May of 1999, when I began employment with the Tribal Police, she has yet to deputize or even suggest that she would, any officer with the Tribal Police.

This is provided for your information only. Again, we appreciate your willingness to take a stand in this matter.

Respectfully,



Terry J. Scott
Prairie Band Potawatomi Tribal Police Department

Cc: File

Attachment: 1

Sen. Federal & State Affairs Comm.
Date: 2-17-2000
Attachment: # 3-1

PRAIRIE BAND POTAWATOMI TRIBAL POLICE DEPARTMENT

| INCIDENT NUMBER | VICTIM | INCIDENT | DATE |
|------------------------|-------------------|-------------------------|----------------|
| 1893 | John Shoen | Officer shooting | 2-18-00 |

Incident Report

On 2-18-00, I was riding with Officer Joe Morris and we were at Indian County North. On Jackson County Sheriff's frequency, we heard, "I've been shot". There was a slight pause and louder, "I've been shot." Shortly, the dispatcher advised that their unit 309 (John Shoen) was at 9825 U4 Road.

We proceeded toward that location and found Officers Filer and Detective Harshaw at 94th Road and Topeka Blvd. Officer Shoen was in a personally owned vehicle and being tended by medical personnel. We offered our assistance to Detective Harshaw. Detective Harshaw interviewed Officer Shoen and came and told us, "We're looking for a white male, last seen at the house where John got shot." I advised Harshaw that we would go to the house and keep it under surveillance and restrict traffic into the area.

Officer Morris and I then went to 94th and Marple Road (U4 in Jackson County) and found Tribal Officer Ken Dolan and two Shawnee County deputies at that location. They advised that they had been told that the house on that corner was where the suspect was and they were containing there. Officer Morris and I believed that this was not the correct location, but advised the officers to maintain until they were relieved. Officer Morris and I proceeded north on U4. Approximately ¼ mile north of that intersection, we came up over a slight rise and heard 3-5 shots fired. Approximately ¼ mile in front of us, a Jackson County sheriff's vehicle was stopped with the left door open and we could see two officers running from the vehicle. The driver ran into the west ditch which had a fairly high embankment that offered cover. The passenger ran across U4 to the east and lay down in a hay meadow. As we watched, the passenger began to low crawl east and south. At this point, five more shots were fired from the direction of the house at 9825 U4. It was impossible from our position to determine where these shots were directed. At this time, Officer Morris and I were approximately 250 yards south of the driveway leading to 9825 U4 on U4 Road. Other units at this location were Officer Dolan and the two SN deputies, Chief Battese, Tribal police, a Holton City police officer, Officer Morris and I.

Approximately ½ hour passed in which we saw no movement from the residence during which time the JA/Co. Deputy had worked his way back to our location. I offered him the back seat of the tribal police vehicle to lie down and warm up, which he gratefully accepted. The second officer whom we learned was a Shawnee County

undercover officer was still in the field directly in front of the driveway to the residence having moved about 100 yards East of the road. As he worked his way south, it became apparent that he was having difficulty moving. I asked Officer Morris to request that Officer Dolan take his four-wheel drive Jeep out into the field to pick up that officer. Chief Battese advised that he'd take care of it. Chief Battese then took his four-wheel drive Durango into the hay meadow and retrieved the officer who was suffering from hypothermia and was later taken to the hospital. Having extricated both officers, we moved back south on U4 road to a location where we had cover from some large bales of hay and continued our surveillance/containment from there.

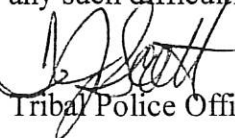
At some point, shortly after Officer Morris and I arrived, Officer Creek arrived and along with off-duty officer Boswell, took up a location directly east of 9825 U4 rd. on 98th road. They halted traffic at that location. There had been at least three civilian vehicles approaching from that direction, two of which recognized there was something wrong, stopped and backed out, however, the third drove up to the intersection in front of the house, clearly in harm's way. Upon seeing the officers under cover and guns showing, backed out.

Approximately two hours after our arrival, we heard from Officer Boswell on tribal police radio that a shot had been fired from the vicinity of the residence. Within seconds, I could see and we reported that the residence was afire. I could see flames through what we believed was a window or windows on the second level of the building. Officer Morris contacted Holton Fire Com with that information. Within ten minutes, the interior of the building was totally engaged as far as we could tell from our location.

We maintained our position until Highway Patrol personnel assigned to their Emergency Response Unit relieved us.

On 2-19-00, upon reporting for duty, I was informed that tribal police Officers Nance and Dunn were providing security for the crime scene at 9825 U4 and had been there all night. I went to that location and relieved Officer Nance and requested that Officer Diehl relieve Officer Dunn, which he did. Shortly after our arrival, Kansas Bureau of Investigation agents and Dick Roseborough, Investigator for the Kansas Fire Marshall's office arrived. I released Officer Diehl.

I spoke with Investigator Roseborough and the lead agent for the K.B.I. and asked if we could be of further assistance. I offered to remain with the four-wheel drive vehicle that I had if they foresaw a need for it. The KBI agent requested that I remain until they could determine how they would retrieve the bodies which had been discovered northwest of the residence in a hay meadow. At approximately 1300 hours, a transport company from Topeka removed the bodies. I advised the KBI agent and Investigator Roseborough that I was leaving unless they had further need for me to stand by. They advised that they might have trouble getting some of their vehicles out of the area where they'd parked because it was beginning to thaw. I advised them that if they experienced any such difficulties, they could call tribal police and we would return and pull them out.


Tribal Police Officer T. J. Scott

Page 2 of 2

HEIN AND WEIR, CHARTERED

Attorneys-at-Law

5845 S.W. 29th Street, Topeka, KS 66614-2462

Telephone: (785) 273-1441

Telefax: (785) 273-9243

Ronald R. Hein

Email: rhein@hwchtd.com

*Stephen P. Weir**

Email: sweir@hwchtd.com

*Admitted in Kansas & Texas

**Testimony before Senate Federal and State Affairs Committee
Re: SB 543, Native American Indian Tribal Law Enforcement Officers
Presented by Ronald R. Hein
on behalf of
Indian Nations In Kansas
February 17, 2000**

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Indian Nations in Kansas (INIK). INIK is an ad hoc coalition of three of the four Kansas Native American Indian Tribes, the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, the Prairie Band Potawatomi Nation, and the Sac and Fox Nation of Missouri.

INIK supports SB 543, which provides for cross deputization under certain circumstances, deals with an issue that was reviewed and discussed by the Joint Committee on State-Tribal Relations when they met this last interim. The issue basically involves what is known as cross deputization, which relates to the ability of local units of government being able to authorize law enforcement personnel for the Native American Indian Tribes to act as agents to investigate, arrest, and otherwise execute law enforcement powers with regards to state and local statutes and ordinances.

Currently, deputization of tribal law enforcement personnel does occur, but on a highly spotty basis and with no specific authority set out in the Kansas Statutes.

SB 543 would specifically authorize the state and local units of government to deputize tribal law enforcement officers.

Speaking generally to the relationship between the State of Kansas and its political subdivisions in relation to the Native American Indian Tribes, it is our hope, goal, and intention, that the relationship between the respective governments can be improved at all levels. SB 543 would be one more step in an ongoing effort to improve relationships and to have better intergovernmental cooperation.

SB 543 is not perfect, and only grants deputization authority on a case by case basis. To say the least, the bill is not drawn as broadly as we would desire. The law enforcement personnel at the Indian reservations are fully trained, and are required to pass the same law enforcement training as other law enforcement personnel in the state. They are

Sen. Federal & State Affairs Comm.

Date: 2-17-00

Attachment: # 4-1

competent, trained professionals.

But this bill is a step in the right direction to improving communication with and the relationship with the Indian tribes in Kansas. We appreciate the sponsors of this bill introducing it, and we would respectfully request the committee approve SB 543 with the recommendation that it be passed.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

STATE C



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|-------------------|------------|---------|-------------|------------|---|
| Post-It* Fax Note | 7671 | Date | 2-17 | # of pages | 4 |
| To | Sen. Oloom | From | Mr. Johnson | | |
| Co./Dept. | | Co. | KDOC | | |
| Phone # | 6-7360 | Phone # | 6-4541 | | |
| Fax # | 368-7119 | Fax # | 6-0014 | | |

DEPARTMENT OF CORRECTIONS
 OFFICE OF THE SECRETARY
 Landon State Office Building
 900 S.W. Jackson — Suite 400-N
 Topeka, Kansas 66612-1284
 (785) 296-3317

Bill Graves
 Governor

Charles E. Simmons
 Secretary

MEMORANDUM

To: Senator Lana Oleen, Chair
 Senate Federal and State Affairs Committee

From: Charles E. Simmons, Secretary *CES by JS*

Subject: Medical Parole in Other States

Date: February 17, 2000

At the request of your office, we have contacted several states which have adopted policies providing for medical parole of inmates. Other states may also have medical parole programs, but the states contacted were the ones we could readily identify as having adopted this type of policy.

Our understanding is that your primary interest is in obtaining information about how the issue of medical costs are handled in these jurisdictions. In our survey, we also gathered additional information which the committee may also find to be of interest.

Briefly, our findings related to the cost issue indicate that no correctional agencies pay for the offender's medical care once the offender is placed on medical parole. In most states we contacted, the question of cost generally appears to be handled on a case by case basis, but often involves assumption of costs by some other public agency. Most of the jurisdictions we contacted also appear to consider this issue in the parole decision-making process and/or the release planning process.

In Kansas, the Department of Corrections would not be in position to pay for an offender's medical costs once they are released on medical parole. Any additional costs incurred by another public agency for the offender's medical care would *not* be offset by a reduction in KDOC medical expenditures because the department's payments to its medical services contractor are not based on a straight pass-through of expenses.

A summary of the information we received from each state is provided below.

Senator Oleen
February 17, 2000
Page 2

Missouri Department of Corrections

- Criteria include: diagnosis of a terminal illness; an elderly offender in need of long-term nursing home care; or, a determination that continued confinement will greatly endanger or shorten the offender's life. The offender must require medical treatment which cannot reasonably be provided by the department due to a diagnosis of a terminal condition or a condition which requires long-term nursing home.
- Includes provision for return of the offender to confinement if the medical condition greatly improves.
- No explicit policy relating to medical costs. It appears that the offender or other social service agencies assist with payment of medical costs.

Florida Parole Commission

- They have a medical parole program called Conditional Medical Release.
- Process is initiated by Florida DOC and covers inmates who face imminent death because of a terminal illness or who are physically incapacitated.
- Inmates are released via standard parole if they meet the criteria. Parole Commission specifies the frequency of reports required to be submitted by the Parole Officer regarding the offender's medical condition—generally quarterly.
- Offenders can be brought back and docketed for a hearing if medical condition improves substantially.
- The ability to pay for medical treatment or have it provided for them is reviewed prior to the decision to release the offender to Conditional Medical Release. Cost for medical services is not borne by the Florida DOC. The cost falls on the offender or other social service agencies.

Kentucky Department of Corrections

- Initially, the law provided that the offender had to have a terminal illness with death being projected within a year. Last year, the law was expanded to include those with chronic illnesses in the later stages (death not necessarily imminent).
- Generally, applications for the medical release come from the facility. Applications are routed through their central office and, if approved, to the Kentucky Parole Board. They look very closely at those with violent crimes. The offender's attorney may also petition the KPB directly for an offender's release.
- DOC staff assist offenders in arranging for medical payment (i.e. they assist in SSI applications and contacts with other social welfare agencies) but the agency doesn't pay any of the offender's medical costs once they are released to parole.

Senator Oleen
February 17, 2000
Page 3

- If the condition of the offender improves, the offender remains on parole unless a violation occurs which would be cause for revocation.

Minnesota Department of Corrections

- Minnesota's conditional medical release statute does not allow medical costs to be borne by the DOC. It requires other means of funding, such as the committing county or county where the inmate is being incarcerated. The statute indicates that the offender may not be released unless it can be determined that the inmate's health costs are to be borne by other social service agencies or the offender.
- Eligibility criteria include terminally ill inmates who can no longer be humanely cared for within DOC facilities. The law allows the DOC to return these inmates without due process in that they are still considered to be inmates and not on statutory release [supervised release].

New York Division of Parole

- Medical parole provision allows the parole board to release an offender certified to be suffering from a terminal illness and being so incapacitated as to create a reasonable probability that he or she is physically incapable of presenting a danger to society. They exclude from consideration those convicted of Murder I, II or 1st Degree Manslaughter (or attempts of any of these), and a list of crimes is included in the statute. Release can be granted at any time during the inmate's sentence. The Board provides notice to the sentencing court of the release consideration, and the court has a reasonable time to respond.
- The Commissioner of Correctional Services may initiate the request for a medical diagnosis or the inmate may request it, which may be done at the discretion of the Commissioner.
- The medical report on the inmate must include an assessment of the likelihood of recovery.
- If the Commissioner concludes that the offender meets the criteria, it is referred to the Parole Board. The DOC and Board jointly develop a release plan.
- If granted, the medical parole is for a period of six months.
- Must be supervised on intensive caseload. Periodic medical exams are required, with one being done at least one month prior to the expiration of the parole. If the report indicates continued incapacitation, then another period of medical parole may be granted. If the condition improves, the Board may not grant another. If the Board does not grant another parole, a hearing must be held by hearing officer to determine if offender is incapacitated. Offender must be provided with legal counsel if he/she can't pay for counsel. If the Board does not renew the medical parole, the offender is returned to custody.
- The parole may be revoked at any time for specific grounds.

Senator Oleen
February 17, 2000
Page 4

- Part of the release plan must include information indicating that the offender is eligible for payment of medical costs by the Division of Social Services or SSI.
- New York Division of Parole has a formalized agreement with the Social Security Administration for initiation of SSI and all financial entitlements are determined prior to release. The Department of Correctional Services ceases to be responsible for medical expenses upon parole release.

Texas Department of Corrections

- Texas has a "Special Needs Parole" and singles out those offenders with high medical needs.
- Utilize other social service agencies for medical and financial assistance.

Alaska Department of Corrections

- Provision for Special Medical Parole in the case of offenders who are severely medically disabled or quadriplegic.
- Board can parole inmate and return when they receive information regarding any change in circumstances.

Wyoming and Louisiana

- The medical parole programs in these states are similar to the others, except that: Wyoming's policy requires that the Governor must first commute the offender's sentence if the inmate is not otherwise eligible for parole; and Louisiana requires a medical determination that the offender's needs could be better met outside of the prison system.

I hope that you and the other committee members find this information to be of use.

PROPOSED SUBSTITUTE BILL NO. 322

By Committee on Federal and State Affairs

AN ACT concerning persons in the custody of the secretary of corrections; relating to early medical release.

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

Section 1. (1) Upon application of the secretary of corrections or any person convicted of a crime in any court of this state, the Kansas parole board may grant early medical release to such person upon such terms and conditions as prescribed in the order granting such release.

(2) The Kansas parole board shall adopt rules and regulations governing the procedure for initiating, processing, reviewing and establishing criteria for approval of applications for early medical release filed by and on behalf of persons convicted of crime. ←

(3) Subject to the provisions of subsections (4) and (5), no early medical release shall be granted until more than 30 days after written notice of the application therefor has been given to: (a) The prosecuting attorney and the judge of the court in which the defendant was convicted; and (b) any victim of the person's crime or the victim's family, if the person was convicted of a crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated. Notice of such application shall be given by the secretary of corrections to the victim who is alive and whose address is known to the secretary of corrections, or if the victim is deceased, to the victim's family if the family's address is known to the secretary of corrections. Notice of the receipt of such application shall be given by publication in the official county paper of the county of conviction. The form of notice shall be prescribed by the board. If the application is submitted by the secretary, the cost of providing notice shall be paid by the department. If the applicant executes a poverty affidavit, the cost of one publication of the notice during a twelve-month period shall be paid by the state. If more than one notice of application is published during any twelve-month period the additional cost of publication shall be paid by the applicant, subject to the

Rules and regulations adopted by the Kansas parole board shall include criteria and guidelines for determining whether the medical condition precludes the person from posing a threat to the public.

for either a pardon or commutation pursuant to K.S.A. 22-3701, and amendments thereto, or a medical release

provisions of subsection (4), if written notification is not given to such victim who is alive and whose address is known to the secretary of corrections or, if the victim is deceased, to the victim's family if the family's address is known to the secretary of corrections, the board shall not grant or deny such application until a time at least 30 days after notification is given by publication as provided in this section.

(4) All applications for early medical release shall be referred to the board. The board shall examine each case and may approve such application and grant an early medical release, except as provided by subsection (5). No application for early medical release shall be approved unless the board determines:

(a) The person is suffering from a terminal disease or condition;

(b) a reasonable probability exists that the person will not live to serve the term to which sentenced;

(c) the person will not pose a threat of harm to the public; and

(d) the person will not violate any law or condition imposed by the board.

due to the terminal disease or condition

(5) If the board approves an application for early medical release, the board shall notify the governor of its recommendation and shall submit a report, together with such information as the board may have concerning the applicant, to the governor within 14 days after the date of approval. If within 14 days of receipt of the notice and report required by this subsection, the governor rejects the board's approval of early medical release, the board's approval shall be void and such person shall not be granted an early medical release pursuant to this section.

(6) Nothing in this section shall be construed to limit or preclude submission of an application for pardon or commutation of sentence pursuant to K.S.A. 22-3701, and amendment thereto.

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