

Approved

Date: *February 1, 2001*

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson John Vratil at 9:38 a.m. on January 30, 2001 in Room 123-S of the Capitol.

All members were present except: Senator Haley (excused)

Committee staff present:

Gordon Self, Revisor
Mary Blair, Secretary

Conferees appearing before the committee:

Helen Pedigo, Juvenile Justice Authority (JJA)
Nancy Bogina, Office of the Governor
Senator James Barnett
Christine Ross-Baze, Director, Child Care License and Registration Program,
Kansas Department of Health and Environment (KDHE)
Sheila Walker, Department of Motor Vehicles (DMV)
Senator David Adkins
Secretary Charles Simmons, Department of Corrections (DOC)
Senator Greta Goodwin

Others attending: see attached list

Minutes of the January 25, 2001 regular meeting and the January 22 and 23, 2001 Joint House and Senate Judiciary meetings were approved on a motion by Senator Donovan, seconded by Senator O'Connor. Carried.

Conferee Pedigo, JJA, discussed and offered four amendments to current law: sentencing alternatives; trial placement at home; juvenile correctional facilities employees; and aggravated escape from custody. She requested a bill be introduced which contain these amendments. Following discussion there was consensus to separate each issue into four separate bills. (attachment 1) Senator Goodwin moved to introduce the bills, Senator Umbarger seconded. Carried.

Conferee Bogina, on behalf of the Governor, requested introduction of an amendment to the current seat belt law which would make failure to wear a seat belt a primary offense, would make changes in the child passenger restraint system, e.g., would add child booster seat, and would make it mandatory to have a seat belt for every child. (a copy of a bill draft was handed out) Senator Goodwin moved to introduce the bill, Senator Umbarger seconded. Carried.

Conferee Senator Barnett, on behalf of the Emporia City Commission and the Mental Health Center of East Central Kansas, requested introduction of a bill addressing the issue of domestic violence. He stated that concerns have been raised relating to victims of domestic violence being treated in the hospital and returning home only to find that the person charged with the act of violence has already been bonded out and are waiting for them at home. He offered a conceptual bill proposal to amend current law to impose a mandatory bond condition on a 1st person felony for up to 72 hours. (no attachment) Senator Gilstrap moved to have the bill drafted and introduced, Senator Schmidt seconded. Carried.

SB 66—concerning CINC; technical amendment

Conferee Ross-Baze testified as a proponent of **SB 66**, bill which provides for a technical amendment to the Child Care Licensing Statutes correcting a statute referencing error undetected in the 2000 session Sub HB 2224. (attachment 2)

SB 67—relating to DUI; concerning penalties

Conferee Walker testified as a proponent of **SB 67**, a bill which she stated makes consistent, driving laws for persons under the age of 21 with a blood alcohol level of .08 or greater by requiring them to serve a standard one-year suspension. (attachment 3)

Written testimony supporting **SB 67** was submitted by Jeff Bottenberg, Kansas Peace Officers' Association and Kansas Sheriffs' Association. (attachment 4)

SB 95—enacting the interstate compact for adult offenders supervision

Conferee Senator Adkins testified as a proponent of **SB 95**, a bill which provides for an approval by Kansas of a proposed Interstate Compact for Adult Offender Supervision. He stated over 4 million people are on probation or parole in this country and 250,000 are expected to cross state lines this year. This Compact delineates the obligation and responsibility of the sending and receiving states. He further stated that the bill revises the existing antiquated and obsolete interstate compact providing for better data collection, and more stringent rules. He also provided statistical data on Kansas Interstate Compact Membership. (attachment 5) He briefly reviewed a publication covering this issue (Corrections Policy Profiler, A Publication of The Council of State Governments, Vol. 2, No. 1, Spring 2000, pp. 1-4) and referenced a resource manual, compiled by the Council of State Governments, which he stated provides a comprehensive review of the proposed compact. (manual available in the Department of Research Room 515S of the Capitol) Discussion followed.

Conferee Simmons testified in conditional support of **SB 95**. He presented background data on the current practice of interstate transfer of offenders and discussed certain considerations and implications of adoption of the new Compact. He stated that his basic concern is that the state will be required to commit to policies not yet written which may not be in the state's best interest, i.e., potential cost after the rules are written collectively by the involved states and the requirement for Kansas to comply or face a penalty. He further stated that under current statutes there are no annual dues assessed against member states. This Compact would require approximately \$25,000 annually from the member states. He suggested Kansas not be among the first to adopt the Compact but wait awhile to see how it operates. He also submitted a summary of the bill's major provisions. (attachment 6) Discussion followed.

Conferee Senator Goodwin briefly testified in support of **SB 95**. She discussed the data related to the number of adults on parole or probation who will cross state lines throughout this year and expressed concern that Kansas may become a haven for offenders if it doesn't become part of the Compact. She provided data on the states that have enacted Compact legislation and proposed an amendment be offered to the bill similar to Colorado's legislation that would set a cap on the dollar amount for the enactment of the Compact with a stipulation that if funding exceeds this amount Kansas will withdraw from the Compact. (attachment 7) Discussion followed

SB 14—concerning mediation; re: disputes which may be ordered to mediation; re: certain costs of mediation.

The Chair appointed Senator Adkins, Senator Haley, and Senator Oleen to a Subcommittee to hear **SB 14**. Senator Oleen will Chair the Subcommittee.

The meeting adjourned at 10:31 a.m. The next meeting is January 31, 2001.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: January 30, 2001

NAME	REPRESENTING
<i>Mel J. Higgins</i>	JTA
<i>Railyn James-Martin</i>	SRS
<i>Trista Beadles</i>	Governor's office
<i>Jeff Arpin</i>	Division of Budget
<i>Stanley P. Sutton</i>	KDHE - SRS
<i>Vickilyn Kelsel</i>	Division of Budget
<i>Chris Ross Baze</i>	KDHE
<i>Nancy Bogina</i>	KDOT
<i>Rosalie Thornburgh</i>	KDOT
<i>Sheila Walker</i>	KDOR - DMV
<i>Harry J. Pamy</i>	KDOR - DMV
<i>Charles Simmons</i>	Dept. of Corrections
<i>KENT R LANDIS</i>	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
<i>Ami HYTEW</i>	Office of Jud. Admin
<i>Robert Collins</i>	Kearney law OFFICE
<i>Jeff Bottenberg</i>	Kansas St. AG'S ASS'N
<i>Joe Harold</i>	KSC
<i>Jan Brack</i>	KSC
<i>Paul Jones</i>	KSC

S JWR
1-30-01
T1

JJA REQUEST FOR BILL INTRODUCTION
SENATE JUDICIARY COMMITTEE

January 30, 2001

1. Sentencing Alternatives

Combination sentencing: This proposal amends K. S. A. 38-1663(a)(4) sentencing alternatives to mandate concurrent probation with custody to the Commissioner for a specific term. This would limit the time an offender could be placed in the Commissioner's custody and would provide probation supervision conditions that are not present currently when an offender is placed in the Commissioner's custody. Now, offenders may be placed in the Commissioner's custody for years and if they are not also placed on probation, they have few other measurements by which to argue for or against maintaining custody of this individual.

Custody to Commissioner: This proposal amends K. S. A. 38-1663(a)(4) to specifically disallow custody to the Commissioner unless the Court is removing the youth from the parental home. This proposal significantly reduces the number of juvenile offenders in JJA custody that are funded by JJA. There is no need for the Court to place an offender in JJA custody to have access to services. A juvenile offender is no more eligible for a medical card in JJA custody than out of JJA custody. Costs for services to keep juveniles out of custody would be paid as needed through the dollars presently sent to JJA's local partners.

2. Trial Placement at Home

Trial placement at home: This proposal amends K.S.A. 38-1664 to note that the Court must make a new finding, of reasonable efforts and contrary to the welfare, after a youth has been in a trial placement at home for six (6) months if the court wishes to remove or remain in a trial placement situation. The need for the Court to make the findings after six months is a Federal requirement.

3. Employees

Fingerprinting: This proposal amends 2000, SSUB2224, Section 35, to include safety and security officer series employees of the juvenile correctional facilities into the pre-employment conditions. This was a new section passed by the Legislature last year. Exclusion of the safety and security officer series employees was an oversight and will only effect the Topeka facility, where there are approximately ten of these positions.

4. Aggravated Escape

This proposal amends K. S. A. 21-3810(a)(2) and (b)(2), aggravated escape from custody to include escape from a state juvenile correctional facility that has a secure perimeter surrounding the facility. The penalty would be a severity level 5 nonperson felony. This is the same level as escape from a juvenile correctional facility for a felony and as escape from an adult correctional facility. This gives the prosecutor an option to file the action at the juvenile or the adult level when the offender is a misdemeanor who is classified as maximum custody. If filed at the adult level, the sanction is presumptive prison. Few of these types of cases are prosecuted.

*In Jud
1-30-01
att1*

38-1663. Sentencing alternatives. (a) When a respondent has been adjudicated to be a juvenile offender, the judge may select from the following alternatives:

(1) Place the juvenile offender on probation for a fixed period, subject to the terms and conditions the court deems appropriate based on the juvenile justice programs in the community, including a requirement of making restitution as required by subsection (d).

(2) Place the juvenile offender in the custody of a parent or other suitable person, subject to the terms and conditions the court orders based on the juvenile justice programs in the community, including a requirement of making restitution as required by subsection (d).

(3) Place the juvenile offender in the custody of a youth residential facility or, in the case of a chronic runaway youth, place the youth in a secure facility, subject to the terms and conditions the court orders.

(4) Place the juvenile offender in the custody of the commissioner *and probation for the specific term and under the specific conditions as set by the Court. This option is only allowed if the Court is removing the youth from the parental home.*

(5) Commit the juvenile offender to a sanctions house for a period no longer than seven days. Following such period, the court shall review the placement. The court may continue to recommit the juvenile offender to a sanctions house for a period no longer than seven days followed by a court review. Commitment to a sanctions house shall not exceed 28 total days for the same act or transaction. If in the adjudication order, the court orders a sanctions house placement for a verifiable probation violation and such probation violation occurs, the juvenile may immediately be taken to a sanctions house and detained for no more than 48 hours, excluding Saturdays, Sundays and holidays, prior to court review of the placement. The court and all other interested parties shall be notified of the sanctions house placement. An offender over 18 years of age or less than 23 years of age at sentencing may be committed to a county jail, in lieu of a sanctions house, under the same time restrictions imposed by this paragraph. No offender may be committed under this paragraph unless such offender has violated the terms of probation.

(6) Commit the juvenile offender to a community based program available in such judicial district subject to the terms and conditions the court orders.

(7) Impose any appropriate combination of paragraphs (1) through (6) of this subsection and make other orders directed to the juvenile offender as the court deems appropriate.

(8) Commit the juvenile offender to a juvenile correctional facility as provided by the placement matrix established in K.S.A. 1999 Supp. 38-16,129, and amendments thereto.

(9) Place the juvenile offender under a house arrest program administered by the court pursuant to K.S.A. 21-4603b, and amendments thereto.

(b) (1) In addition to any other order authorized by this section, the court may order the:
(A) Juvenile offender and the parents of the juvenile offender to:

(i) Attend counseling sessions as the court directs; or
(ii) participate in mediation as the court directs. Participants in such mediation may include, but shall not be limited to, the victim, the juvenile offender and the juvenile offender's parents. Mediation shall not be mandatory for the victim;

(B) parents of the juvenile offender to participate in parenting classes; or

(C) juvenile offender to participate in a program of education offered by a local board of education including placement in an alternative educational program approved by a local board of education.

(2) Upon entering an order requiring a juvenile offender's parent to attend counseling sessions or mediation, the court shall give the parent notice of the order. The notice shall inform the parent of the parent's right to request a hearing within 10 days after entry of the order and the parent's right to employ an attorney to represent the parent at the hearing or, if the parent is financially unable to employ an attorney, the parent's right to request the court to appoint an attorney to represent the parent. If the parent does not request a hearing within 10 days after entry of the order, the order shall take effect at that time. If the parent requests a hearing, the court shall set the matter for hearing and, if requested, shall appoint an attorney to represent the parent. The expense and fees of the appointed attorney may be allowed and assessed as provided by K.S.A. 38-1606, and amendments thereto.

(3) The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than what the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than what the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative.

(c) (1) If a respondent has been adjudged to be a juvenile offender, the court, in addition to any other order authorized by this section, may suspend the juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state. The duration of the suspension ordered by the court shall be for a definite time period to be determined by the court. Upon suspension of a license pursuant to this subsection, the court shall require the juvenile offender to surrender the license to the court. The court shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the juvenile offender may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the juvenile offender's privilege to operate a motor vehicle is in effect. As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto. Any respondent who is adjudicated to be a juvenile offender who does not have a driver's license may have such juvenile offender's driving privileges revoked. No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked pursuant to this section for a definite time period to be determined by the court.

(2) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any respondent adjudicated to be a juvenile offender, as provided in subsection (c)(1), the court in which such juvenile offender was adjudicated to be a juvenile offender may enter an order which places conditions on such juvenile offender's privilege of operating a motor vehicle on the streets and highways of this state, a certified copy of which such juvenile offender shall be required to carry any time such juvenile offender is operating a motor vehicle on the streets and highways of this state. Any such order shall prescribe the duration of the conditions imposed and shall specify that such duration shall be for a definite time period to be determined by the court. Upon entering an order restricting a juvenile offender's license hereunder, the court shall require such juvenile offender to surrender such juvenile offender's driver's license to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been

imposed on such juvenile offender's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the juvenile offender for whom the license was issued any time such juvenile offender is operating a motor vehicle on the streets and highways of this state. If the juvenile offender is a nonresident, the court shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of such juvenile offender's state of residence. Such court shall furnish to any juvenile offender whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this subsection. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such juvenile offender may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such juvenile offender's privilege to operate a motor vehicle on the streets and highways of this state has been suspended or revoked prior thereto. If any juvenile offender shall violate any of the conditions imposed under this subsection, such juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be revoked for a period as determined by the court in which such juvenile offender is convicted of violating such conditions.

(d) Whenever a juvenile offender is placed pursuant to subsection (a)(1) or (2), the court, unless it finds compelling circumstances which would render a plan of restitution unworkable, shall order the juvenile offender to make restitution to persons who sustained loss by reason of the offense. The restitution shall be made either by payment of an amount fixed by the court or by working for the persons in order to compensate for the loss. If the court finds compelling circumstances which would render a plan of restitution unworkable, the court may order the juvenile offender to perform charitable or social service for organizations performing services for the community. Nothing in this subsection shall be construed to limit a court's authority to order a juvenile offender to make restitution or perform charitable or social service under circumstances other than those specified by this subsection or when placement is made pursuant to subsection (a)(3) or (4).

(e) In addition to or in lieu of any other order authorized by this section, the court may order a juvenile offender to pay a fine not exceeding \$250 for each offense. In determining whether to impose a fine and the amount to be imposed, the court shall consider the following:

(1) Imposition of a fine is most appropriate in cases where the juvenile offender has derived pecuniary gain from the offense.

(2) The amount of the fine should be related directly to the seriousness of the juvenile offender's offense and the juvenile offender's ability to pay.

(3) Payment of a fine may be required in a lump sum or installments.

(4) Imposition of a restitution order is preferable to imposition of a fine.

(5) The juvenile offender's duty of payment should be limited in duration and in no event should the time necessary for payment exceed the maximum term which would be authorized if the offense had been committed by an adult.

(f) In addition to or in lieu of any other order authorized by this section, if a juvenile is adjudicated to be a juvenile offender by reason of a violation of K.S.A. 41-719, 41-727, 65-4101 through 65-4164 or K.S.A. 1999 Supp. 8-1599, and amendments thereto, the court shall order the juvenile offender to submit to and complete an alcohol and drug evaluation by a community-

based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. The court may waive such evaluation if the court finds that the juvenile offender has completed successfully an alcohol and drug evaluation, approved by the community-based alcohol and drug safety action program, within 12 months before sentencing. If such evaluation occurred more than 12 months before sentencing, the court shall order the juvenile offender to resubmit to and complete such evaluation and program as provided herein. If the court finds that the juvenile offender and those legally liable for the offender's support are indigent, the fee may be waived. In no event shall the fee be assessed against the commissioner or the juvenile justice authority. The court may require the parent or guardian of the juvenile offender to attend such program with the juvenile offender.

(g) The board of county commissioners of a county may provide by resolution that the parents or guardians of any juvenile offender placed under a house arrest program pursuant to subsection (a)(9) shall be required to pay to the county the cost of such house arrest program. The board of county commissioners shall prepare a sliding financial scale based on the ability of the parents to pay for such a program.

(h) In addition to any other order authorized by this section, if child support has been requested and the parent or parents have a duty to support the respondent the court may order, and when custody is placed with the commissioner shall order, one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent already is subject to an order to pay support for the respondent. If the parent currently is not ordered to pay support for the respondent and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 38-16,117, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 23-4,105 *et seq.*, and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 38-16,119, and amendments thereto. The parent also shall be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

(i) Any order issued by the judge pursuant to this section shall be in effect immediately upon entry into the court's journal.

(j) In addition to the requirements of K.S.A. 38-1671, and amendments thereto, if a person is under 18 years of age and convicted of a felony or adjudicated as a juvenile offender for an offense if committed by an adult would constitute the commission of a felony, the court shall forward a signed copy of the journal entry to the commissioner within 30 days of final disposition.

(k) The sentencing hearing shall be open to the public as provided in K.S.A. 38-1652, and amendments thereto.

38-1664. Juvenile offenders placed in custody of commissioner, considerations by court; notification of court; reports by commissioner and foster parents; permanency hearing. (a)

Prior to placing a juvenile offender in the custody of the commissioner and recommending out-of-home placement, the court shall consider and determine that, where consistent with the need for protection of the community:

(1) Reasonable efforts have been made to prevent or eliminate the need for out-of-home placement or reasonable efforts are not possible due to an emergency threatening the safety of the juvenile offender or the community; and

(2) out-of-home placement is in the best interests of the juvenile offender.

(b) When a juvenile offender has been placed in the custody of the commissioner, the commissioner shall notify the court in writing of the initial placement of the juvenile offender as soon as the placement has been accomplished. The court shall have no power to direct a specific placement by the commissioner, but may make recommendations to the commissioner. The commissioner may place the juvenile offender in an institution operated by the commissioner, a youth residential facility or a community mental health center. If the court has recommended an out-of-home placement, the commissioner may not return the juvenile offender to the home from which removed without first notifying the court of the plan.

(c) During the time a juvenile offender remains in the custody of the commissioner, the commissioner shall report to the court at least each six months as to the current living arrangement and social and mental development of the juvenile offender.

(d) *The Court may not place custody with the Commissioner unless the Court removes the youth from the parental home when* If the juvenile offender is placed outside the juvenile offender's home, a permanency hearing shall be held not more than 12 months after the juvenile offender is placed outside the juvenile offender's home and, if reintegration is a viable alternative, every 12 months thereafter. The court may appoint a guardian ad litem to represent the juvenile offender at the permanency hearing. Juvenile offenders who have been in extended out of home placement shall be provided a permanency hearing within 30 days of a request from the commissioner. If reintegration is not a viable alternative and either adoption or permanent guardianship might be in the best interests of the juvenile offender the county or district attorney shall file a petition alleging the juvenile is a child in need of care and requesting termination of parental rights or the appointment of a permanent guardian pursuant to the Kansas code for care of children. If the juvenile offender is placed in foster care, the foster parent or parents shall submit to the court, at least every six months, a report in regard to the juvenile offender's adjustment, progress and condition. The juvenile justice authority shall notify the foster parent or parents of the foster parents' or parent's duty to submit such report, on a form provided by the juvenile justice authority, at least two weeks prior to the date when the report is due, and the name of the judge and the address of the court to which the report is to be submitted. Such report shall be confidential and shall only be reviewed by the court and the child's attorney.

(e) The report made by foster parents and provided by the commissioner of juvenile justice, pursuant to this section, shall be in substantially the following form:

REPORT FROM FOSTER PARENTS

CONFIDENTIAL

Child's Name

Current Address

Parent's Name

Foster Parents

Primary Social Worker

Please circle the word which best describes the child's progress

1. Child's adjustment in the home
excellent good satisfactory needs improvement
2. Child's interaction with foster parents and family members
excellent good satisfactory needs improvement
3. Child's interaction with others
excellent good satisfactory needs improvement
4. Child's respect for property
excellent good satisfactory needs improvement
5. Physical and emotional condition of the child
excellent good satisfactory needs improvement
6. Social worker's interaction with the child and foster family
excellent good satisfactory needs improvement
7. School status of child:

School

Grade

Grades	Good _____	Fair _____	Poor _____
Attendance	Good _____	Fair _____	Poor _____
Behavior	Good _____	Fair _____	Poor _____

8. If visitation with parents has occurred, describe the frequency of visits, with whom, supervised or unsupervised, and any significant events which have occurred.

9. Your opinion regarding the overall adjustment, progress and condition of the child:

10. Do you have any special concerns or comments with regard to the child not addressed by this form? Please specify.

*New Proposed Statute. **Trial placement at home.** When a juvenile offender has been placed with the parents for a trial placement, the Court must re-establish the findings in K.S.A. 38-1664(a) within every six months the offender remains in trial placement.*

SSUB 2224, New Sec. 35. All juvenile corrections officers and those employees within the juvenile corrections officer series *and safety and security officer series* first employed on and after July 1, 2000, *and the safety and security officer series first employed on or after July 1, 2001*, shall be required to be at least 21 years of age, shall possess no felony convictions, and shall meet such physical agility requirements as set by the commissioner.

21-3810. Aggravated escape from custody. Aggravated escape from custody is: (a) Escaping while held in lawful custody (1) upon a charge or conviction of a felony or (2) upon a charge or adjudication as a juvenile offender as defined in K.S.A. 38-1602, and amendments thereto, where the act, if committed by an adult, would constitute a felony or (3) prior to or upon a finding of probable cause for evaluation as a sexually violent predator as provided in K.S.A. 59-29a05 and amendments thereto or (4) upon commitment to a treatment facility as a sexually violent predator as provided pursuant to K.S.A. 59-29a01 *et seq.* and amendments thereto or (5) upon a commitment to the state security hospital as provided in K.S.A. 22-3428 and amendments thereto based on a finding that the person committed an act constituting a felony or (6) by a person 18 years of age or over who is being held on an adjudication of a felony or (7) upon incarceration at a state correctional institution as defined in K.S.A. 75-5207 and amendments thereto, while in the custody of the secretary of corrections; or (8) *upon an escape from a state juvenile correctional facility that has a secure perimeter surrounding the facility.*

(b) Escaping effected or facilitated by the use of violence or the threat of violence against any person while held in lawful custody (1) on a charge or conviction of any crime or (2) on a charge or adjudication as a juvenile offender as defined in K.S.A. 38-1602, and amendments thereto, where the act, if committed by an adult, would constitute a felony or (3) prior to or upon a finding of probable cause for evaluation as a sexually violent predator as provided in K.S.A. 59-29a05 and amendments thereto or (4) upon commitment to a treatment facility as a sexually violent predator as provided in K.S.A. 59-29a01 *et seq.* and amendments thereto or (5) upon a commitment to the state security hospital as provided in K.S.A. 22-3428 and amendments thereto based on a finding that the person committed an act constituting any crime or (6) by a person 18 years of age or over who is being held on a charge or adjudication of a misdemeanor or felony or (7) upon incarceration at a state correctional institution as defined in K.S.A. 75-5207 and amendments thereto, while in the custody of the secretary of corrections; *or upon an escape from a state juvenile correctional facility that has a secure perimeter surrounding the facility.*

(c) (1) Aggravated escape from custody as described in subsection (a)(1), (a)(3), (a)(4), (a)(5) or (a)(6) is a severity level 8, nonperson felony.

(2) Aggravated escape from custody as described in subsection (a)(2), ~~or~~ (a)(7) or (a)(8) is a severity level 5, nonperson felony.

(3) Aggravated escape from custody as described in subsection (b)(1), (b)(3), (b)(4), (b)(5) or (b)(6) is a severity level 6, person felony.

(4) Aggravated escape from custody as described in subsection (b)(2), ~~or~~ (b)(7) or (b)(8) is a severity level 5, person felony.



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

5 Jul
30-01
att 2

Testimony Concerning Senate Bill 66
to
Senate Judiciary Committee
Presented by
Christine Ross-Baze, Director
Child Care Licensing and Registration Section
Bureau of Consumer Health
January 30, 2001

Senator Vratil and members of the Senate Judiciary Committee, I am pleased to appear before you today to discuss SB 66 and its impact on Kansas children.

Senate Bill 66 amends K.S.A. 38-1507 to correct an error in referencing another statute. K.S.A. 38-1507 (c)(12) and K.S.A. 38-1507(d)(9) reference K.S.A. 59-512 and the correct reference is K.S.A. 65-512. In the 2000 Legislative session, Substitute HB 2224 amended the Child In Need of Care Code to allow the Kansas Department of Social and Rehabilitation Services to share information concerning child abuse investigations freely with the Kansas Department of Health and Environment and local health departments. **K.S.A. 65-512** is the correct reference in the Child Care Licensing Statutes to allow this free exchange of information.

The Department is concerned that if the error is not fixed there could be a challenge to the statutory authority to exchange information resulting in delays in investigations, duplication of fact finding, lack of cooperation between agencies and will ultimately hinder the Department's ability to protect children.

The Department supports Senate Bill 66. The Kansas Department of Health and Environment, the Kansas Department of Social and Rehabilitation Services and other agencies charged with protecting children should have free exchange of information.

I thank you for the opportunity to appear before the Senate Judiciary Committee and will gladly stand for questions the committee may have on this topic.

In Jud
1-30-01
att 2

1-30-01
att 3

Sheila J. Walker, Director
Division of Vehicles
915 SW Harrison St.
Topeka, KS 66626-0001



(785) 296-3601
FAX (785) 291-3755
Hearing Impaired TTY (785) 296-3909
Internet Address: www.ink.org/public/kdor

Division of Vehicles

TESTIMONY

TO: Senate Judiciary Committee Chair John Vratil
Members of the Senate Judiciary Committee

FROM: Sheila J. Walker, Director of Vehicles *Sheila J. Walker*

DATE: January 30, 2001

RE: Senate Bill 67

Chairman Vratil and members of the Senate Judiciary Committee, my name is Sheila Walker, and I serve as Director of the Kansas Division of Motor Vehicles. Thank you for the opportunity to provide testimony today in support of Senate Bill 67.

The 1996 Kansas Legislature enacted zero tolerance, making it unlawful for any person less than 21 years of age to operate or attempt to operate a vehicle in this state with a breath or blood alcohol content of .02 or greater. The law became effective in January 1997. The license sanction for a first occurrence was a 30-day suspension. On a second and subsequent occurrence, the license sanction was a 90-day suspension.

The 1999 Legislature made the license sanction even tougher for drivers under 21 whose blood alcohol content measures between .02 and .0799. Starting July 1, 1999, the license sanction for a first occurrence is a one-year suspension. On a second and subsequent occurrence, the license sanction is, again, one year. However, there's a discrepancy for drivers under 21 whose blood alcohol content is .08 or greater.

If the blood alcohol content of a driver under the age of 21 measures *above* .08, the license is suspended for one-year or the length of diversion. Some courts are allowing 30-day license suspensions, rather than a full year. The message this sends to teens is: the more you drink, the less of a driver's license suspension you may serve.

The division recommends consistency, so affected drivers under the age of 21 serve a standard, one-year suspension.

Thank you for your consideration of this simple cleanup measure.

In Jud
1-30-01
att 3

*Written
1-30-01
att 4*

Polsinelli | Shalton | Welte

A Professional Corporation

Memorandum

TO: THE HONORABLE JOHN VRATIL, CHAIRMAN
SENATE JUDICIARY COMMITTEE

FROM: JEFFERY S. BOTTENBERG, LEGISLATIVE COUNSEL,
KANSAS PEACE OFFICERS' ASSOCIATION
KANSAS SHERIFFS' ASSOCIATION

RE: S.B. 67

DATE: JANUARY 29, 2001

Mr. Chairman, Members of the Committee, my name is Jeff Bottenberg and I am submitting this testimony on behalf of the Kansas Peace Officers' Association ("KPOA") and the Kansas Sheriffs' Association ("KSA"), which collectively represent approximately 5,000 members of the Kansas law enforcement community. We thank you for the opportunity to express our support of Senate Bill 67.

KPOA and KSA strongly support enhanced penalties for intoxicated drivers, for we feel that is the best deterrent to prevent people from driving under the influence of alcohol and/or drugs. Therefore, our organizations fully support the enhanced lengths for driver license suspensions contained in Senate Bill 67. We further support enhanced driver license suspensions and penalties for offenders under the age of 21, which reflects the state's policy of zero tolerance for underage drinkers.

Again, KPOA and KSA strongly support Senate Bill 67, and urge its favorable consideration and passage. Please feel free to contact me if you have any questions.

Very Truly Yours,



Jeff Bottenberg

JSB

One AmVestors Place
555 Kansas Avenue, Suite 301
Topeka, KS 66603
Telephone: (785) 233-1446
Fax: (785) 233-1939
Direct Number: (785) 233-1446
jbottenberg@pswlaw.com

*In Jud
1-30-01
att 4*

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

Testimony in Support of SB 95
before the Senate Judiciary Committee
January 30, 2001

Mr. Chairman and Members of the Committee:

It is my pleasure to join my colleague, Senator Greta Goodwin, as a proponent and sponsor of Senate Bill 95 which provides for our state's approval of the proposed Interstate Compact for Adult Offender Supervision.

This compact provides a much needed revision to the existing interstate compact and significantly enhances public safety by improving the process by which out of state criminals are accounted for in Kansas. Over 4 million people are on probation or parole in the United States and 250,000 of them are expected to cross state lines this year. The compact delineates the obligation and responsibility of the sending and receiving states.

To date, nine states have enacted the compact – including Missouri, Oklahoma and Colorado. The Kansas House passed House Bill 2939 approving the compact last year but the bill did not receive Senate consideration.

Some may urge delay in adopting the new compact. I believe such delay is unwarranted and potentially dangerous. Kansas should be at the table when regulations are being developed to operationalize the compact. Kansas can always withdraw from the compact should we determine regulations adopted to operationalize the compact are contrary to our best interests.

The existing compact is antiquated and obsolete. In the interest of protecting public safety a new compact is needed. With this testimony I am providing you with a copy of a resource manual compiled by the Council of State Governments. This manual provides a comprehensive review of the proposed compact.

I urge the committee to report SB 95 favorable for passage.

Respectfully submitted,


David Adkins

8-30-01
att 5

Sen Fred
1-30-01
att 5

Kansas Interstate Compact Membership - National & Regional Highlights

2-5

NATIONAL COMPACTS

<u>Compact Name</u>	<u>Member States</u>	<u>Kansas Statute</u>	<u>State (1) Assessment</u>	<u>Compact Administrator (2) or Commission</u>
Interstate Compact on Juveniles	50	K.S.A. 38-1002		Commissioner, Juvenile Justice Authority
Interstate Compact on the Placement of Children	50	K.S.A. 38-1201		Commissioner, Children & Family Services
Interstate Compact for Education	49	K.S.A. 72-6011	\$53,600	Commissioner, Dept. of Education
Interstate Compact on Parole & Probation	47	K.S.A. 22-4101	\$400	Adult Compact Administrator
Interstate Uniform Agreement on Detainers	47	K.S.A. 22-4401	\$0	Secretary, DOC
Interstate Compact on Mental Health	45	K.S.A. 65-3101		Director of Institutions
Driver License Compact	43	K.S.A. 8-1212		Director, Division of Vehicles, Dept. of Revenue
Interstate Corrections Compact	40	K.S.A. 76-3001	\$0	Secretary, DOC
Interstate Compact on Qualifications of Ed Personnel	35	K.S.A. 72-60a01		Commissioner, Dept. of Education
Interstate Library Compact	34	K.S.A. 12-2901		State Librarian
Interstate Compact to Conserve Oil & Gas	29	K.S.A. 55-801		Interstate Oil & Gas Compact Commission
Emergency Management & Civil Defense Compact	29	K.S.A. 48-3201		Deputy, Division of Emergency Mangement
Nonresident Violator Compact (of 1977)	26	K.S.A. 8-1219		Chief Examiner's Office, Driver Licensure Bureau
Interstate Compact on Pest Control	24	K.S.A. 2-2114		Dept. of Agriculture
Multistate Tax Compact	20	K.S.A. 79-4301		Multistate Tax Commission
Interstate Compact for Adoption & Medical Assistance	18	K.S.A. 38-335		Commissioner, Children & Family Services

REGIONAL COMPACTS

<u>Compact Name</u>	<u>Member States</u>	<u>Kansas Statute</u>	<u>State (1) Assessment</u>	<u>Compact Administrator (2) or Commission</u>
Midwestern Higher Education Compact	9	K.S.A. 72-60b01		Midwestern Higher Education Commission
Central Interstate Low-Level Radioactive Waste Compact	5	K.S.A. 65-34a01		Central Interstate Low-Level Radioactive Waste Commission
Republican River Compact	3	K.S.A. 82a-518		Republican River Compact Administration
Interstate Compact on Agricultural Grain Marketing	2	K.S.A. 2-3101	\$0	
Big Blue River Compact	2	K.S.A. 82a-529		Kansas-Nebraska Big Blue River Commission
Arkansas River Compact of 1949	2	K.S.A. 82a-520		Colorado Water Conservation Board

Source: *Interstate Compacts & Agencies, CSG, 1998; Kansas Annotated Statutes, 1999*

State Assessment data comes from state administering agencies, state budget offices, and third party administering agencies

The person or office statutorily charged/obligated to oversee the administration of the compact/agreement

8
10-01
att 6

**Testimony on SB 95
before the Senate Judiciary Committee**

by

Charles E. Simmons, Secretary of Corrections

January 30, 2001

In Jud
1-30-01
att 6

SB 95 Interstate Compact for Adult Offender Supervision

Background

Enactment of SB 95 would constitute state approval of the Interstate Compact for Adult Offender Supervision. If approved by 35 states, the compact would supercede the Probation and Parole Compact Administration Association, of which Kansas is currently a member and active participant.

Under provisions of KSA 22-4101, the Department of Corrections is empowered to administer the movement of all offenders subject to the jurisdiction of the existing compact. The department's Interstate Compact Unit is located in the central office and consists of the Interstate Compact Administrator, who is appointed by the Governor, two parole officers and an office assistant.

Offenders permitted to transfer their supervision from Kansas to other states are supervised by probation or parole officers of the receiving state. Offenders from other states permitted to reside in Kansas, whether on probation or parole, are supervised by the department's Parole Services staff. All offenders transferred under the provisions of the Interstate Compact are required to follow the conditions of both the sending and receiving states.

The Interstate Compact Unit currently monitors approximately 593 probationers supervised in other states. Additionally, there are 1,018 parole and postrelease offenders under KDOC jurisdiction who are under supervision in other states. There are 249 parolees and 717 probationers from other states residing in Kansas.

Considerations

General Policy

If the new compact is adopted by 35 states, I believe Kansas should also approve the measure because we need to be part of the mechanism for interstate transfer of responsibility in supervision of offenders. As of January 2001, nine states have enacted laws to approve the compact. However, I have reservations about some of the provisions of the compact and believe the Legislature should be fully aware of those provisions before it acts on the issue.

My basic concern about the compact is that it requires making a commitment to unknowns which could prove to be very significant. Compact provisions involve a broad delegation of state policy and fiscal decision-making authority to the compact's interstate commission. If the state approves the compact, we are agreeing to accept policies that are not yet written, some of which may be viewed by state policymakers as contrary to the state's best interests and/or state budgetary priorities. If that situation arises, there appears to be little room for discretion on the part of participating states. The commission's rules would be binding, and there are strong provisions for punitive action against states that are non-compliant—including fines and legal action in the federal court system.

Fiscal Implications

Annual assessment. The compact authorizes the commission to levy and collect annual assessments from the member states to finance the operations and activities of the commission. Estimates prepared by the Council of State Governments indicate that Kansas could anticipate an annual assess-

SB 95 Interstate Compact for Adult Offender Supervision

ment of approximately \$25,000 (based on the assumption that costs would be assessed against 50 member states). Under the existing compact, there are no annual dues assessed against the member states.

Data systems. The compact explicitly addresses the development of uniform standards for the reporting, collection and exchange of data. Depending on the specifications eventually developed, this could require extensive modification to our existing automated information systems. This could place the state in the position of having to expend scarce IT resources on an application that we would have little control in defining and that might not be a priority when weighed against other needs.

Supervision of Misdemeanants. Because of resource limitations, the Department of Corrections has been very restrictive about the number of misdemeanants accepted for supervision under the existing interstate agreement. Our reading of the proposed compact is that member states would be subject to sanctions if their policies were as restrictive as our current practice. If this proved to be the case, the state would need to determine the most appropriate agency for supervision of compact misdemeanants, whether it be KDOC or court services. Although we have no reliable basis for estimating the number of misdemeanants who might be referred under the proposed compact, it is probable that staffing levels and caseloads would be impacted.

State Council. The compact requires the establishment of a state council. Its provisions set minimum requirements for responsibilities and representation, but discretion is left to the states as to the size of the council and the full extent of its duties. There would be some costs associated with support of the council and its activities, although these cannot be quantified until more specifics are known regarding its composition and scope.

Other Operational Implications

The compact requires the commission to establish rules in a number of substantive operational areas, such as victim notification, offender registration, collection of fees and restitution, and level of supervision to be provided. While these rules would apply only to compact offenders, it is possible that they could pose operational issues relative to implementation of state policy in the supervision of Kansas offenders. If we are required to implement different procedures or use different standards for compact offenders in areas that are currently governed by uniform policies and procedures, then equity and/or administrative considerations may prompt consideration of changes that would not otherwise occur.

A summary of the bill's major provisions is attached.

SB 95 Interstate Compact for Adult Offender Supervision

Major Provisions of SB 95

PURPOSES OF THE COMPACT

1. Provide the framework for promotion of public safety;
2. Protect the rights of victims through the control and regulation of the interstate movement of offenders in the community;
3. Provide effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states;
4. Equitably distribute the costs, benefits and obligations of the compact among the compacting states.

POWERS OF THE COMPACT COMMISSION

- Establishes an interstate commission to: develop procedures for the transfer of offender supervision responsibilities from one compact state to another; ensure opportunity for victim notification and input; establish a system for uniform data collection and access to information; monitor compliance; and coordinate training and education. (page 3)
- Empowers the commission to promulgate rules which will have the force and effect of statutory law and which will be binding on the member states. (page 4 and pages 9-11)
- Requires that the compact promulgate rules to govern member state procedures in the following areas, at a minimum, as they relate to interstate compact offenders (page 10):

Victim notification and opportunity for victim input;
Offender registration and compliance;
Violations and returns;
Transfer procedures and forms;
Transfer eligibility;
Collection of restitution and fees;
Uniform standards for data collection and reporting;
Supervision levels to be provided by the receiving state;
Transition rules;
Mediation, arbitration and dispute resolution.

COMPLIANCE AND ENFORCEMENT

- Authorizes the commission to enforce compliance with compact provisions, commission rules and by-laws, using all necessary and proper means, including but not limited to, initiation of legal action through the federal court system. (pages 5 and 14)
- Requires courts and executive agencies in each compacting state to enforce the compact and to take all necessary and appropriate actions to effectuate the compact's purposes and intent. (page 11)
- Authorizes the commission to impose penalties on states determined by the commission to have defaulted in the performance of any of

SB 95 Interstate Compact for Adult Offender Supervision

COMPLIANCE AND ENFORCEMENT (CONT)

their compact obligations or responsibilities. Penalties may include: fees, fines and costs; remedial training and technical assistance; and suspension and termination of membership. *(page 13)*

- Provides that all compacting states' laws conflicting with the compact are superseded to the extent of the conflict. *(page 15)*

FINANCE

- To finance its operations and activities, authorizes the commission to levy and collect an annual assessment from each member state. *(pages 11-12)*

STATE COUNCIL

- Provides that each member state shall create a State Council for Interstate Adult Offender Supervision, which shall be responsible for appointment of the commissioner to represent the state on the compact commission. The state council would also be responsible for oversight and advocacy concerning the state's participation in the compact. *(page 4)*
- Provides that the state compact administrator be appointed either by the Governor or the state council. *(page 4)*

EFFECTIVE DATE

- The compact would become effective July 1, 2001 or upon enactment by the 35th state, whichever is later. *(page 12)*

8 Jul
30-01
att 7

GRETA H. GOODWIN
SENATOR, 32ND DISTRICT
COWLEY AND SUMNER COUNTIES

STATE CAPITOL BUILDING
ROOM 403-N
TOPEKA, KANSAS 66612-1504
(785) 296-7381
420 E. 12TH AVE.
WINFIELD, KANSAS 67156
(316) 221-9058



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

RANKING MINORITY MEMBER:
JUDICIARY
CORRECTIONS/JUVENILE JUSTICE

MEMBER: ASSESSMENT AND TAXATION
ENERGY AND NATURAL RESOURCES
TRANSPORTATION AND TOURISM
STATE BUILDING CONSTRUCTION
HEALTH CARE REFORM LEGISLATIVE
OVERSIGHT
KANSAS SENTENCING COMMISSION
JUDICIAL COUNCIL PROBATE
LAW ADVISORY COMMITTEE

TESTIMONY

TO: Chairman John Vratil
Members of the Senate Judiciary Committee
RE: Senate Bill 95
Dated: January 30, 2001

Thank you Mr. Chairman and Committee Members for the opportunity to speak in support of Senate Bill 95.

Background

According to The Council of State Governments there will be four million adults on parole or probation. 250,000 of those parolees will cross state lines throughout this year. In Kansas there are 3, 248 offenders who travel in and out of the state. States that have already enacted legislation to be in an Interstate Compact for Adult Offender Supervision include: Colorado, Missouri, Oklahoma, Kentucky, Idaho, California, Connecticut, Hawaii and Vermont. According to the National Institute of Corrections the provisions of the 1937 compact are now out of date to control the offender population. We presently do not have a method of collection of standardized information. The legislation before you will update the 1937 compact to enable states to better manage, monitor and supervise adult parolees and probationers in states other than where they were sentenced. The new compact can be ready to take place by July 1, 2001 if passed by 35 states or upon passage by the 35th state.

Need For Joining of the Compact

As stated above the current compact between the states is out of date, and a new compact needs to be put into place to help control the amount of traffic that goes in and out of states. Three questions need to be asked when dealing with this new compact. Who are they? Where are they? Who is responsible for them?

First, who are they? They are the four million adults in this country who are on parole. The current situation does not let us effectively follow who is where, and what possible threat they pose. So this legislation will help the promotion of public safety and protect the rights of victims.

Where are they? 3,248 offenders will travel in and out of the state of Kansas by the end of the year. This relates to the first question in that safety is an important matter for our citizens. This Compact will create an Interstate Commission which will establish uniform procedures to

Inged
1-30-01
att 7

manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact. There are about 3,285 different local parole and probation offices. Because it is so fragmented it makes it nearly impossible to account for all offenders, making a uniform procedure necessary.

Who is responsible for them? The states that decide to join the compact recognize that each state is responsible for the supervision of the adult offenders. States who put people on parole or probation have a clear duty to the general public to make sure that it can monitor those individuals.

Conclusion

The annual cost for Kansas will be a concern as the dues to each state are calculated according to the state population. I would propose that an amendment be offered to the bill similar to that of Colorado's legislation in that our state set a cap on the dollar amount for the enactment of the compact and should the state find that the funding is to exceed the cap amount, the state will withdraw from the Compact.

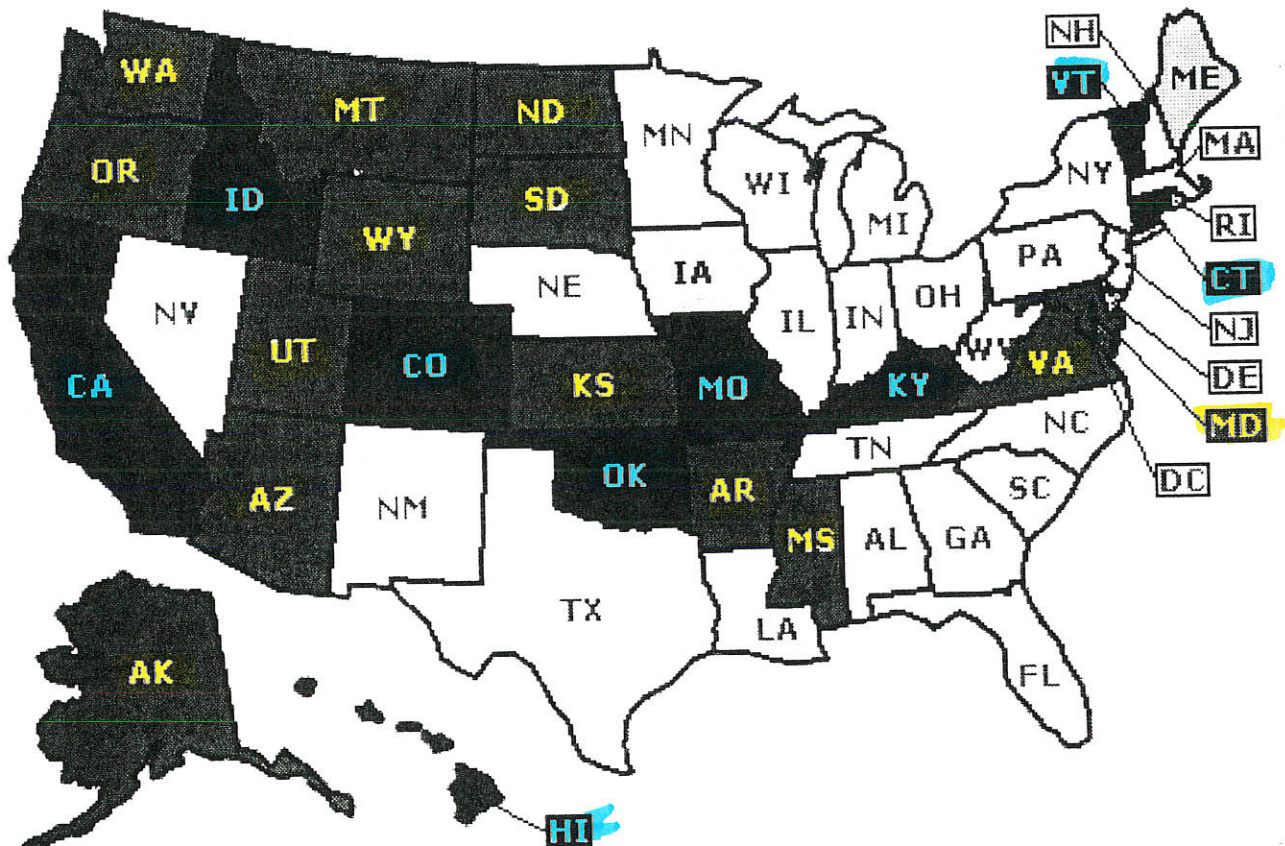
Senate Bill No. 95 also has the provision that a compacting state may withdraw from the Compact by enacting a statute specifically repealing the state which enacted the Compact into law.





I have attached to my testimony a map showing those nine states which have enacted the Interstate Compact into law (blue), as well as the fourteen states which have 2001 legislation pending (yellow). You will observe that Kansas is almost surrounded by the mentioned 22 states. Should all the pending legislation be passed during the 2001 session, Kansas could have offenders seek Kansas as a haven due to our not having in place the Interstate Compact.

Again, I thank you for the opportunity to address the Committee. I urge your favorable consideration of this legislation.

State Legislative Activity

Click on your state for more information



-  Enacted Into Law
-  2001 Introduction
-  2000 Activity
-  Passed by Legislature

-  American Samoa
-  Guam
-  Northern Mariana Isl.
-  Puerto Rico
-  U.S. Virgin Islands