

MINUTES OF THE HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE.

The meeting was called to order by Chairperson Ward Loyd at 1:30 p.m. on February 13, 2003, in Room 526-S of the Capitol.

All members were present except:

Committee staff present:

Jill Wolters - Office of Revisor  
Mitch Rice - Office of Revisor  
Jerry Ann Donaldson - Legislative Research Department  
Nicoletta Buonasera - Legislative Research Department  
Bev Renner - Committee Secretary

Conferees appearing before the committee:

Randy Hearrel, Kansas Judicial Council  
Judge C. Fred Lorentz—Chair Kansas Judicial Council-Juvenile Offender/Child in Need of Care  
Advisory Council  
Representative Kathe Decker  
Representative Todd Novascone  
Sheriff Gary Steed, Sedgwick County  
Judy Moler, General Counsel/Legislative Services Director, Kansas Association of Counties  
(written testimony)

**HB 2270 - Kansas juvenile justice code.**

**Chairperson Loyd opened the hearing on HB 2270.**

Chairperson Loyd called upon Randy Hearrel of the Kansas Judicial Council to introduce Judge C. Fred Lorentz, Chairman of the Kansas Judicial Council-Juvenile Offender/Child in Need of Care to present **HB 2270** and stand in support of the bill (Attachment 1). This bill is referred to as the rewrite of the Kansas Juvenile Justice Code. The Advisory committee recommending this legislation was made up of judges, prosecutors, a practicing lawyer guardian *ad litem*, social workers, legal counsel for JJA, SRS representatives including legal counsel, the director of the Shawnee County CASA program, a children's service league representative, a law school professor and several legislators. Many technical and terminology changes were made along with the reorganization of some sections for better reference. Judge Lorentz gave emphasis to the policy changes addressed in the bill.

**Chairperson Loyd recessed the hearing on HB 2270 until February 20, 2003.**

**HB 2050 -County or district attorney allowed to grant only one diversion for a minor in possession charge.**

**Chairperson Loyd opened the hearing on HB 2050.**

Representative Kathe Decker was recognized to speak in support of **HB 2050** (Attachment 2). Drug and consuming alcohol first time offenders are placed on a strict diversion and are expected to complete the guidelines. In some locations, if the youth is picked up for the same offense he may be given a second diversion, and even a third. This bill would limit the offender to one diversion.

Sheriff Chuck Dunn spoke in support of **HB 2050** (Attachment 3). The practice of giving a second diversion while the first is still in effect or history shows that one has been given negates the effectiveness of the law involving diversions. Diversions are not being correctly reported so that counties can verify past records with the state. There are diversions being granted in different counties because of ignorance of previous diversions.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE at 1:30 p.m. on February 13, 2003, in Room 526-S of the Capitol.

**Chairperson Loyd closed the hearing on HB 2050.**

**HB 2132 - Increasing fee charged to inmates on work release from county jail.**

**Chairperson Loyd opened the hearing on HB 2132.**

Sheriff Gary Steed from Sedgwick County appeared in support of **HB 2132** (Attachment 4). This bill would increase the amount that a work release inmate would be required to pay to defray the cost of maintaining that inmate in the county jail from \$10 to not to exceed \$20 per day. Even with the increase, the costs of the program will not be met but there would be some relief and inmates would have a larger contribution for their upkeep.

The committee's attention was directed to written testimony (Attachment 5) submitted by Judy Moler, General Counsel/Legislative Services Director of the Kansas Association of Counties in support of **HB 2132**.

**Chairperson Loyd closed the hearing on HB 2132.**

The meeting was adjourned at 3:20 p.m. The next meeting is scheduled for February 17, 2003.

**HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE GUEST LIST**

DATE Feb 13, 2003

NAME	REPRESENTING
Larry Butler	Sedgwick Co Sheriff Dept
DAVE THOMPSON	Sedgwick Co SHERIFF'S DEPT
GARY STEED	Sedgwick Co. Sheriff.
Leigh Scharff	PittState Nursing Dept
Jennifer Jackman	Fort Scott Community College
Jean LaRue	Neosho County Comm College - Nursing
Lori Lewis	Southwestern BSN Program
Kamona Decker	KPSL
Jandra L. Featherman	Kansas State Nurses Association
Keith Bradshaw	Budget
Gary H. Burton	Morris Co. FB
Connie Burton	Morris Co FB
Marilyn Jacobs	SRS
Fred Lorey	Legal Council
Lita Anderson	Senate
John Pearce	Judicial Council
Michael White	KCPAA
Mike Peppoon	Sedgwick County.
Sean Harrington	
Trister Curzydlo	KO Bar Association
KEITH R LANDIS	CHRISTIAN SCIENCES COMMITTEE ON PUBLICATION FOR KANSAS
Ronnie Wiley	Fort Scott Community College
W. Hoppe	FSCC DSG
Danielle Klee	Johnson County

HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE GUEST LIST

DATE Feb 13, 2003

NAME	REPRESENTING
Amy McFarlane	FSCC Nursing Student
Shan George	FSCC Nursing Student
Pat Johnson	FSCC Nursing Student
Casey Eastwood	FSCC Nursing Student
Joshua Baldwin	FSCC Nursing Student
Mark Gleeson	Judicial Branch
Megan Thompson	Eric Carter's Shadow
Rachel Pickering	clerk / Rep Jan Pridle
Rep Kathe Decken	
Chuck Deann	Clay Co Sheriff



**JUDICIAL COUNCIL TESTIMONY ON HB 2270 TO THE  
CORRECTIONS AND JUVENILE JUSTICE COMMITTEE  
KANSAS HOUSE OF REPRESENTATIVES**

**February 13, 2003**

Mr. Chairman and members of the committee:

I appreciate the opportunity to appear before you as a member of the Kansas Judicial Council regarding House Bill 2270, commonly referred to as the rewrite of the Kansas Juvenile Justice Code.

As a brief background, in 2000 the legislature passed Senate Resolution No. 1862, which is included in the attached report, establishing a study group to make recommendations concerning the Kansas Juvenile Offenders Code (JO Code) and the Kansas Code for Care of Children (CINC Code). Legislative leadership thereafter requested that the Judicial Council undertake the study. Acting on that request, the Judicial Council appointed an advisory committee. A list of the members of the advisory committee is also included in the report. I think it is important to note that the committee included judges, prosecutors, a practicing lawyer guardian-ad-litem, social workers, legal counsel for JJA, SRS representatives including legal counsel, the director of the Shawnee County CASA program, a children's service league representative, a law school professor, a former social work professor and several legislators. It is a committee made up of dedicated people who cover virtually all the areas involved in juvenile matters. That committee met monthly for over two years on both JO and CINC issues with emphasis this past year on JO issues in order to have a bill introduced in time for this session. The result is House Bill 2270. The committee continues to meet with the emphasis now on CINC issues. We plan to have the CINC bill ready for introduction in next year's session.

We early on settled on a methodology that included guiding principles toward 1) simplifying the code, 2) reorganizing the code in a logical manner, 3) removing redundancy, 4) removing "case specific" language and replacing it with general criteria, and 5) being certain all changes would be constitutionally permissible. The result of our deliberations is a bill that contains recommendations for technical changes in grammar, style and language; changes in terminology; clarification; reorganization; and a number of suggested policy changes.

In the interest of time I will not attempt today to cover all the changes we recommend be made to the code. My intent is to concentrate on those changes that would be considered to be policy changes. However, you will also find attached to my handout the report we prepared and presented to the Judicial Council. You will see it does contain detailed references to all the changes we are recommending and I think you will find it helpful in your consideration of the Bill.

Thank you for your time and I will now go through portions of the Bill.

Judge C. Fred Lorentz

H. Corr & J.J.

2.13.03

Attachment 1

**REPORT OF THE JUDICIAL COUNCIL  
JUVENILE OFFENDER/CHILD IN NEED OF CARE  
ADVISORY COMMITTEE ON THE KANSAS  
JUVENILE JUSTICE CODE**

**BACKGROUND**

Near the end of the 2000 Legislature the Senate passed Senate Resolution No. 1862 which was a resolution establishing a study group to make recommendations as to the Kansas Juvenile Offenders Code and the Kansas Code for Care of Children. A copy of the resolution is included at page 22 of this report.

The Legislative leadership subsequently decided that rather than establish the group contemplated by the resolution, that it would request that the Judicial Council undertake a study of the Kansas Juvenile Offender's Code and the Kansas Code for Care of Children. The Judicial Council agreed to undertake the study and appointed an advisory committee.

**MEMBERS**

The members of the Judicial Council Juvenile Offender/Child in Need of Care Advisory Committee are:

**Honorable C. Fred Lorentz**, Chair, Fredonia. Judge Lorentz is a district judge and member of the Judicial Council.

**Charles H. Apt, III**, Iola. Mr. Apt is a practicing lawyer who practices in the juvenile area and has extensive experience as a guardian ad litem.

**Honorable Kathryn Carter**, Concordia. Judge Carter is a district magistrate judge.

**Michael George**, Topeka. Mr. George is Chief Counsel for the Kansas Juvenile Justice Authority.

**Senator Greta Goodwin**, Winfield. Senator Goodwin is a state senator and ranking minority member of the Senate Judiciary Committee.

**Donald W. Hymer**, Olathe. Mr. Hymer is an assistant district attorney in Johnson County and practices exclusively in the area of juvenile law. He is a frequent presenter at continuing legal education programs on juvenile law and related subjects.

**William E. Kennedy, III**, Manhattan. Mr. Kennedy is County Attorney in Riley County and handles the juvenile matters in that office.

**Representative Brenda Landwehr**, Wichita. Representative Landwehr is state representative from Wichita and Vice-Chair of the Joint Committee on Children's Issues.

**Professor Richard E. Levy**, Lawrence. Professor Levy is a professor at the University of Kansas School of Law.

**Sue Lockett**, Topeka. Mrs. Lockett has served as Executive Director of C.A.S.A. of Shawnee County for a number of years.

**Roberta Sue McKenna**, Topeka. Mrs. McKenna was previously an attorney for Children and Family Policy with Kansas Department of Social and Rehabilitation Services and is now the Assistant Director for Foster Care and Adoption.

**Representative Janice L. Pauls**, Hutchinson. Representative Pauls is an attorney, a state representative and is the ranking minority member of the House Judiciary Committee.

**Senator Edward W. Pugh**, Wamego. Senator Pugh is an attorney, state senator and vice-chair of the Senate Judiciary Committee. Senator Pugh is the sponsor of the resolution that led to the creation of the committee.

**Honorable Steven M. Roth**, Westmoreland. Judge Roth is an attorney and is a district magistrate judge in Pottawatomie County.

**Donavon Rutledge**, Topeka. Mr. Rutledge is the recently retired Director of Evaluation and Program Improvement for the Kansas Department of Social and Rehabilitation Services. Previously Mr. Rutledge taught in the School of Social Work at Wichita State University.

**Sarah Sargent**, Topeka. Ms. Sargent is an attorney for the Kansas Children's Service League.

**Honorable Jean F. Shepherd**, Lawrence. Judge Shepherd is a district judge and handles juvenile matters in Douglas County.

## METHODOLOGY

At its initial meeting the Committee reviewed its assignment and agreed that the guiding principles with regard to its study are to:

- Simplify the codes.

- Reorganize the codes in a logical manner.
- Remove redundancy from the codes.
- Remove “case specific” language and replace it with general criteria.
- Be certain that all changes are constitutionally permissible.

The Committee began its meetings in August of 2000 and has met nearly monthly since that time. The meetings have included consideration of the Kansas Juvenile Justice Code and preparation for consideration of the Kansas Code for Care of Children.

## RECOMMENDATIONS

The Committee has completed its consideration of the Kansas Juvenile Justice Code. The recommendations of the Committee are shown in the “redline” version of proposed amendments to the code. A description of the changes relating to clarification, reorganization and policy may be found beginning at page 7 of this report in the section entitled “Description of Proposed Changes in the Kansas Juvenile Justice Code.”

The recommendations of the Committee are categorized as follows:

1. **Technical changes or changes in grammar, writing style or language.** These changes are numerous and are found in almost every section of the code. These changes are not discussed in the comments and are evident to the readers of the code.
2. **Changes in terminology.** The Committee made several decisions about terminology. They are as follows:
  - A. **Child.** The Committee decided to not use the term “child” in this code unless it refers to a child in need of care or use of the term is otherwise necessary.
  - B. **Juvenile.** As currently defined, the term “juvenile” cannot be correctly used in the code to include alleged juvenile offender or juvenile offender, although in the current code it is often used in that manner. The reason is that “juvenile” is currently defined as “a person 10 or more years of age but less than 18 years of age.”

The term “juvenile” currently cannot correctly refer to “alleged juvenile offender” because if that person commits an offense shortly

before his or her 18<sup>th</sup> birthday he or she may be an “alleged juvenile offender” but not a juvenile after that birthday.

The term “juvenile,” as currently defined, will not always be correct if it is substituted for “juvenile offender” because juvenile means a person 10 to 18 years of age and a juvenile offender could be up to 23 years of age, depending on the circumstances of sentencing.

One result of using the current definition is that in order to be technically correct, the phrase “alleged juvenile offender or juvenile offender” must be repeated numerous times.

The Committee agreed to change the definition of the term “juvenile” from its current definition of “a person 10 or more years of age but less than 18 years of age” to a three part definition which is as follows: “‘Juvenile’ means a person as to whom one or more of the following applies, he or she: (1) is 10 or more years of age but less than 18 years of age; (2) is alleged to be a juvenile offender or (3) has been adjudicated as a juvenile offender and continues to be subject to the jurisdiction of the court.”

By changing the definition as the Committee proposes, the term “juvenile” can be used throughout the code and be technically correct. In most instances the meaning of “juvenile” it is clear from the context of the section or is not significant.

In instances when a specific reference to one of the three subsections of the definition of juvenile is required, the statute will identify the specific use.

- C. Juvenile, alleged juvenile offender and juvenile offender. The Committee also decided to use only the terms “juvenile,” “alleged juvenile offender” and “juvenile offender” to refer to juveniles in the code. Terms such as “respondent,” “defendant,” “child” and others were replaced.
- D. Juvenile corrections officer. The Committee adopted and defined the term “juvenile corrections officer” which was not previously used in the code.

- 3. **Clarification.** A number of the changes recommended by the Committee are for the purpose of clarification. The attempts to clarify take several forms. For example: some sections are rewritten so they are less vague; some sections are rewritten to



state something directly which may be understood from the content of the section and in some sections the Committee has put in writing a practice that is common, but not clearly stated in the statute.

There are other examples of attempts at clarification in the proposed amendments to the statutes and, of course, it is hoped that the changes in grammar, writing style and language help make the meaning of the sections clearer.

For the sections the Committee considers changed for the purpose of clarification, see page 7 of this report.

4. **Reorganization.** The Committee made a number of changes to follow its guiding principle of "reorganizing the code in a logical manner."

Sections and subsections were moved and combined in the effort. The major changes are as follows:

<u>Old Section No.</u>	<u>New Location</u>
38-1612	38-1621 (last sentence)
38-1624(c)(3)(A) & (B)	38-1624b
38-1640	38-1624a
38-1662	38-1661 (combined)
38-1663(b), (e), (g) & (h)	38-1663a
38-1667	38-1604(c)
38-1668	38-1663b
38-1673(f)	38-1677a
38-1675(b)	38-1677a
38-16,111	38-1664a
38-16,116	38-1616a
38-16,117	38-1616b
38-16,118	38-1616c
38-16,119	38-1616d
38-16,120	38-1616e
38-16,126	38-1663c
38-16,127	38-1616f
38-16,128	38-1616g
38-16,129	38-1669
38-16,130	38-1670
38-16,131(a)	38-1665(d)
38-16,132	38-1670a
38-16,133	38-1670b

Additional changes were made within sections and language which was deemed no longer necessary was stricken. New sections were drafted as deemed desirable.

For the sections the Committee reorganized, see page 10 of this report.

5. **Policy changes.** The changes made by the Committee which required the most time and consideration were recommendations which change existing policies. These changes vary from minor changes to significant changes in policy.

For a list of sections the Committee considers policy changes, see page 15 of this report.

## DESCRIPTION OF PROPOSED CHANGES IN THE KANSAS JUVENILE JUSTICE CODE

### **Clarification Changes**

#### 38-1604 - Jurisdiction; placement with department of social and rehabilitation services or juvenile justice authority, costs

Amendments to this section clarify that the court's jurisdiction ends at age 21 unless other provisions apply. The amendments require that the judge designate the date of termination of jurisdiction in the case file and also clarifies, by making consistent with the existing practice in some jurisdictions, that termination of jurisdiction pursuant to this section has no effect on the juvenile offender's continuing responsibility to pay restitution pursuant to K.S.A. 38-1663(d).

#### 38-1605 - Venue

In subsection (c) the complainant is stricken as a person who may make the venue motion.

#### 38-1606a - Appointment of court-appointed special advocate

The word "homelike" was stricken and replaced with the word "appropriate" because in some instances it will be in the best interests of the juvenile to be in a more structured placement and "homelike" placements are not always options in juvenile offender cases.

#### 38-1608 - Records of law enforcement officers and agencies and municipal courts concerning certain juveniles; disclosure

Amendments to subsection (e)(2)(K) and (L) relating to disclosure of records and information obtained as part of the juvenile intake and assessment process utilize the language of K.S.A. 38-1507(d), (11) and (12) for clarity.

#### 38-1614 - Health services

The amendment in subsection (a)(2) clarifies that the Juvenile Justice Authority, as custodian, may consent to medical treatment for juvenile offenders who have committed felonies, are under 16 years of age, and in the legal custody of the Department of Corrections, but because of their age are placed in a Juvenile Justice Authority facility.

#### 38-1616- Expense of care and custody of juvenile

Subsection (a) was amended to clarify that expenses for the care and custody of the juvenile are to be paid by the county in which proceedings are initiated. However, if venue of the case is transferred, those expenses must be paid by the receiving county.

Subsection (a)(2) was deleted because it has no current application.

Subsection (b), which deals with reimbursement of expenses, was amended to state that where a county has paid expenses of a person accused of being or adjudicated to be a juvenile offender, the court may assess those expenses to the person legally responsible for the care of the juvenile.

38-1616a - Determination of parentage under the code

Subsection (b) is stricken because authority to consent is contained in the parentage act, which is referenced in subsection (a).

38-1624 - Juvenile taken into custody; when; procedure; release

Subsection (a) was amended by adding a new subsection (6), which makes reference to the written statement discussed in subsection (b).

38-1626 - Summons; persons upon whom served; form

Subsection (a) was amended by deleting the requirement that the summons be served on a parent "who may be ordered to pay child support" because at the initial summons stage, child support is not generally a concern and it is unlikely that those causing the issuance of the summons would know who might be liable for a support order.

38-1630 - Subpoenas and witness fees

Subsection (b) is clarified to state that the court has the power to compel attendance of witnesses from out of state for proceedings under the juvenile justice code. Currently there is a difference in how courts handle this issue. The change is consistent with K.S.A. 22-4202 and 22-4203 of the code of criminal procedure.

38-1631 - Issuance of warrant

This section is clarified by stating the circumstances in which the court may issue a warrant in a manner similar to the criminal code. Following the adult criminal code is not a policy change but rather a clearer way of stating the requirements of the existing section.

38-1632 - Detention hearing; waiver; notice; procedure; audio-video communications

The changes made in this section are for clarification or are technical changes. The subsections relating to juveniles being held in jails are stricken because that is no longer an option at this stage of the proceeding.

38-1635 - Immediate intervention programs

Subsection (d) was amended to clarify and eliminate confusing language which could have been interpreted to mean that no juvenile detained for any kind of offense, whether charged or not, could enter the immediate intervention program. As amended, subsection (b) provides that only certain previously adjudicated juvenile offenders are ineligible for the program.

38-1636 - Prosecution as an adult; extended jurisdiction juvenile prosecution; burden of proof; authorizations

This section is amended in subsection (a)(3) and subsections (f)(1) and (2) to clarify that when a juvenile is presumed to be an adult or presumed to be subject to an extended jurisdiction juvenile prosecution that the juvenile has the burden to rebut the presumption by a preponderance of the evidence.

38-1637 - Proceedings to determine competency

Subsection (d) was amended to clarify that even if an alleged juvenile offender is found to be incompetent, he or she remains subject to the court's jurisdiction.

38-1652 - Hearings; open to the public; restrictions

Subsection (c) is clarified to state that even if a hearing is open to the public, the court may still order witnesses sequestered.

38-1669 - Sentencing juvenile offenders; placement matrix; placements based on offense committed; aftercare term; placement matrix chart

For clarity a placement matrix chart was prepared and included.

38-1677 - Juvenile offenders, release or discharge; school district involvement, policies

Amendments to this section clarify that an educational plan must be made for the juvenile and notice sent.



## Reorganization Changes

### 38-1602 - Definitions

The definitions section was reorganized by placing it in alphabetical order and adding a definition of the phrase "juvenile corrections officer." In addition, the term "conservator" was stricken from the definition of "parent" because conservators deal only with financial matters.

The definition of "juvenile" was broadened to be consistent with its usage in the current code and to lessen the need to frequently use a longer phrase to be technically correct. The definition of the term "juvenile offender" was made consistent with the change in the definition of "juvenile."

### 38-1604 - Jurisdiction; placement with department of social and rehabilitation services or juvenile justice authority, cost

New language in subsection (c) is from K.S.A. 38-1667 which requires a judge to designate when jurisdiction will end in each juvenile offender case.

### 38-1612 - Duties of county or district attorney

This section moved to the last sentence of 38-1621.

### 38-1616 - Expense of care and custody of juvenile

Subsection (a)(2) was stricken because it has no current application.

### 38-1616a - Determination of parentage under the code

This section was moved here from K.S.A. 38-16,116 because this is a more logical place in the code for the subject matter.

### 38-1616b - Determination of child support under code

This section was moved here from K.S.A. 38-16,117 because this is a more logical place in the code for the subject matter.

### 38-1616c - Journal entry for child support under code

This section was moved here from K.S.A. 38-16,118 because this is a more logical place in the code for the subject matter.

38-1616d - Withholding order for child support under code; filing; service

This section was moved here from 38-16,119 because this is a more logical place in the code for the subject matter.

38-1616e - Remedies supplemental not substitute

This section was moved here from K.S.A. 38-16,120 because this is a more logical place in the code for the subject matter.

38-1616f - Placement under juvenile justice code; assignment of support rights

This section was moved here from K.S.A. 38-16,127 because this is a more logical place in the code for the subject matter.

38-1616g - Liability of parent or guardian for assistance provided juvenile, exceptions

This section was moved here from K.S.A. 38-16,128 because this is a more logical place in the code for the subject matter.

38-1621 - Commencement of proceedings; duties of county or district attorney

The last sentence of the section was previously K.S.A. 38-1612.

38-1624 - Juvenile taken into custody, when ; procedure; release

Subsection (c)(3)(A) and (B) regarding the admission into evidence of a confession made while in custody were stricken and moved to section K.S.A. 38-1624b, a new section which deals with custodial interrogation.

38-1624a - Criteria for detention of juvenile in detention facility

This section was moved from current K.S.A. 38-1640 because it more logically follows K.S.A. 38-1624 which deals with taking a juvenile into custody. The section sets out the criteria for detaining a juvenile in a juvenile detention facility and has been slightly amended from 38-1640. The section was amended to delete reference to crimes committed prior 1993, because if the crime was committed by a juvenile offender prior to 1993, that offender would now be over 18 years of age and could not be held in a juvenile detention center pursuant to subsection (c).

38-1624b - Limitation on custodial interrogation

This is a new section which was placed at 38-1624b from its previous location as a part of K.S.A. 38-1624 (c)(3)(A) and (B) without substantive change. It is the opinion of the Committee that a

separate section on the subject of custodial interrogation is appropriate at this place in the code.

38-1624c- First order removing juvenile from home; considerations by court

This is a new section that was drafted to comply with the Adoption and Safe Families Act of 1997.

38-1638 - Proceedings to determine competency; commitment of incompetent

This section is reorganized but without substantive change.

38-1640 - Criteria for detention of juvenile in detention facility

This section was moved to new section 38-1624a where it was inserted and amended.

38-1641 - Duty of parents and others to appear at all proceedings involving alleged juvenile offender; failure; contempt

The section was amended by deleting the term "guardian" in several places because that term is already included within the definition of "parent" at K.S.A. 38-1602 (n). For the same reason, the definition of "parent" in subsection (b) was deleted.

38-1661 - Post adjudication orders and hearings

Section K.S.A. 38-1662 was stricken and combined with K.S.A. 38-1661 because both sections refer to information gathering tools that assist in sentencing.

38-1663 - Sentencing alternatives

Subsection (a) has been rewritten to provide a master list of sentencing alternatives, roughly in the order of increasing severity of sanctions.

Provisions of subsections (b) and (e), and all of subsections (g) and (h) have been moved to new section K.S.A. 38-1663a, which combines orders relating to parents into one section.

38-1663a - Orders relating to parents

This is a new section which consolidates various provisions from current 38-1663 concerning orders relating to parents into a separate provision. There are no substantive changes in this section from current 38-1663.

38-1663b - Duty of parents to aid in enforcement of court orders; failure, contempt

This section was moved here from K.S.A. 38-1668 because this is a more logical place in the code

for the subject matter.

38-1663c - Extended jurisdiction juvenile prosecution; violating conditions of stayed juvenile sentence; hearing

This section was moved to K.S.A. 38-1663c from 38-16,126 because this location is a more logical place in the code for the subject matter.

38-1664a - Juvenile in custody of DOC; placement; notification to court; detention; admission to a juvenile correction facility

This section was moved to K.S.A. 38-1664a from 38-16,111 because this is a more logical place in the code fro the subject matter.

38-1665 - Modification of sentence

Subsection (d) comes from K.S.A. 38-16,131 which was stricken by the Committee.

38-1667 - Termination of jurisdiction

This section was moved to new K.S.A. 38-1604(c), which is a more logical place in the code for the subject matter.

38-1668 - Duty of parents and others to aid in enforcement of court orders; failure; contempt

This section was moved to K.S.A. 38-1663b which is a more logical place in the code for the subject matter.

38-1669 - Sentencing juvenile offenders; placement matrix; placements based on offense committed; aftercare term; placement matrix

This section was moved from K.S.A. 38-16,129 to this section, which is a more logical place in the code for the subject matter.

38-1670 - Good time credits; rules and regulations of commissioner; minimum sentence

This section was moved from K.S.A. 38-16,130 because this is a more logical place in the code for the subject matter.

38-1670a - Departure sentences; hearing; order; findings of fact; limitations

This section was moved from K.S.A. 38-16,132 because this is a more logical place in the code for the subject matter.

38-1670b - Computation of sentence; date of commencement of sentence; allowance for time spent; good time calculations

This section was moved from K.S.A. 38-16,133 because this is a more logical place in the code for the subject matter.

38-1673 - Commitment to juvenile correction facility; conditional release; procedure; supervision; notification of county or district attorney and victim, local law enforcement agency and school district; aftercare services

The last half of subsection (f) was moved without substantive change to new section K.S.A. 38-1677a.

38-1675 - Commitment to juvenile correction facility; discharge from commitment; notification to county or district attorney and victim, local law enforcement agency and school district

Language was deleted from the last half of subsection (b) and moved without substantive change to new section K.S.A. 38-1677a.

38-1677a - Juvenile offenders, release or discharge; school district involvement, policies

This section consists of provisions which were previously contained in K.S.A. 38-1673 and 38-1675. This section was moved to this new location and cross-referenced. There is no substantive change from current law.

38-16,111; 38-16,116; 38-16,117; 38-16,118; 38-16,119; 38-16,120; 38-16,126; 38-16,127; 38-16,128; 38-16,129; 38-16,130; 38-16,132 and 38-16,133

These sections were moved to other locations in the code. See page 5 of this report for their new locations.

38-16,131 - Modification of sentence

This section was stricken after the Committee received information from the Juvenile Justice Authority that it is not used. Part of the language in subsection (a) has been moved to 38-1665(d). Since both 38-1665 and this section related to the subject of modification of sentence, it was the Committee's opinion is that they should be in one place.



## Policy Changes

### 38-1603 - Time limitations

This section is amended to generally parallel the adult criminal code which lengthens the statute of limitations in certain instances. The amendment adds lewd and lascivious behavior under K.S.A. 21-3508 and unlawful voluntary sexual relations under K.S.A. 21-3522 to a list of crimes that, if the victim is less than 16 years of age, have a five year statute of limitations. This section is further changed so rape and aggravated criminal sodomy have five year statutes of limitations regardless of the age of the victim. The amendment adds a one year extension to the statute of limitations from the date identity of the suspect is conclusively established by DNA testing. The amendment adds language similar to K.S.A. 21-3106(a)(f) extending the statute of limitations to age 28, if certain qualifying circumstances exist.

### 38-1604 - Jurisdiction; placement with department of social and rehabilitation services or juvenile justice authority, costs

The amendments state that termination of jurisdiction pursuant to this section has no effect on the juvenile offender's continuing responsibility to pay restitution pursuant to K.S.A. 38-1663(d). This will be a change in some jurisdictions which have interpreted the existing statute differently.

### 38-1605 - Venue

Currently the subsection requires that in order for the sentencing hearing to be held in the county where the act was committed, it must be in both the best interests of the juvenile offender and the community. This section is amended to read "in the interest of justice."

### 38-1607 - Court records; disclosure; preservation of records

The limitation on a victim's records going to the Kansas Racing Commission and the addition of court appointed special advocates and juvenile correction officers as persons who may inspect the social file are policy changes.

In subsection (d) the striking of "16 or more years of age" and the insertion of "14 or more years of age" is a change that is consistent with previous legislative action relating to age of confidentiality.

The time at which records in custody of the Kansas State Historical Society may be disclosed is changed from 80 years after creation to 70 years after creation to be consistent with K.S.A. 2001 Supp. 45-221(f).

38-1608 - Records of law enforcement officers and agencies and municipal courts concerning certain juveniles; disclosure

Subsection (a) is amended to add "juvenile correction officers" to the list of person who may obtain records of juveniles under 14 years of age.

Subsection (e) is amended to allow only records, reports and information obtained as part of the juvenile intake and assessment process to be disclosed as provided by statute.

38-1609 - Records of diagnostic, treatment or medical facilities concerning alleged juvenile offenders or juvenile offenders

The Juvenile Justice Authority and the Department of Corrections are added to the list of who may obtain diagnostic, treatment or medical records.

38-1610 - Expungement of records

In subsection (b), the crime of rape (K.S.A. 21-3502) is added to the list of acts that may not be expunged. The change is consistent with K.S.A. 21-4619(c) which relates to crimes adults may not expunge, and includes rape.

38-1611 - Fingerprints and photographs

This section was amended to provide for fingerprinting and photographing of an alleged juvenile offender in more limited circumstances than under the current law. Subsection (a)(2) was amended to limit taking of fingerprints and photographs to juvenile offenders, but to require that both fingerprints and photographs be taken, after adjudication, if any felony or certain other crimes were committed. These crimes are taken from K.S.A. 21-2511, the same list of crimes that requires those persons who commit them to submit specimens for DNA testing.

Subsections (a)(3) and (4), which provide for permissive fingerprinting and photographing, were amended so that they apply only to an alleged juvenile offender who has previously been prosecuted as an adult, or to a juvenile who has been admitted to a juvenile corrections facility.

Amendments to subsections (b) and (c) allow fingerprints and photographs to be taken for certain felony and sexual cases of juvenile offenders who have been prosecuted as adults and juveniles who have been admitted to a juvenile corrections facility, and provides those photographs and fingerprints be kept and disseminated in the same manner as those of adults.

38-1613 - Docket fee and expenses

The section was amended so that docket fees and expenses may no longer be assessed in a juvenile offender case against the complaining witness or the person initiating prosecution. This amendment

reflects what happens in actual practice.

#### 38-1616 - Expense of care and custody of juvenile

Under current law the hearing under subsection (b) is automatic. The subsection has been amended to require the court to inform the person of the right to such hearing and grant the hearing, if requested.

#### 38-1622 - Pleadings

Subsection (a)(1) was amended by deleting requirements regarding who may file a complaint.

Subsection (a)(2) was amended to delete "Respondent under 18 years of age" from the title of juvenile proceedings and replace that phrase with "a juvenile."

Subsection (a)(3) was amended to provide that the complainant must notify the parents that they may be required to pay child support if the child is removed from the home.

Subsection (b) was amended to provide that the same motions available in civil and criminal proceedings are available under the juvenile justice code. The existing code is silent on this matter, and the amendment reflects current practice.

#### 38-1623 - Notice of defense of alibi or mental disease or defect

This section was amended to require an alleged juvenile offender whose defense is alibi or mental disease or defect to give written notice thereof to the prosecutor not less than 10 days prior to the adjudicatory hearing. This is a change from the current law that requires the notice within five days after the initial appearance. Although this is a policy change, it conforms the statute to the adult criminal code and to the present practice because such notices can seldom, if ever, be given within five days of the initial appearance.

#### 38-1624 - Juvenile taken into custody, when; procedure; release

Subsection (b) was amended to allow probation officers, as well as juvenile justice authority supervising officers, to issue arrest and detain orders on probation violators as they do with adults. Not all juvenile justice authority supervising officers are community correction officers, so the language is broadened to "juvenile corrections officer" which is defined at new K.S.A. 38-1602(i).

#### 38-1624a - Criteria for detention of juvenile in detention facility

This section contains the first occurrence of language implementing the Adoption and Safe Families Act of 1997. Compliance with the act is required to qualify for federal financial participation in the cost of juvenile offender programs. Similar changes are made, where appropriate, throughout the

code.

Subsection (b)(6) is amended to not require that assaultive, destructive, or self-destructive behavior continue after the juvenile is taken into custody for a juvenile to be placed in a juvenile detention center.

38-1624c - First order removing alleged juvenile offender or juvenile offender from home; considerations by court

This section is new and was drafted to comply with the Adoption and Safe Families Act of 1997.

38-1624d - First order removing alleged juvenile offender or juvenile offender from home; determination of reasonable efforts to maintain the family unit and prevent unnecessary removal from the home

This is a new section drafted to comply with the Adoption and Safe Families Act of 1997.

38-1627 - Service of process

Amending this section to refer to the civil code will simplify service and keep this code consistent with future amendments to the civil code. The authority granted under K.S.A. 60-303 is a slight expansion of the authority granted under existing K.S.A. 38-1637.

38-1633 - First appearance

This section contains the policy change which is striking the phrase "pretrial hearings" and inserting in lieu thereof "first appearance."

38-1635 - Immediate intervention programs

A policy change was made in subsection (a)(2) which was amended to allow law enforcement officers to issue summons if a local prosecutor has adopted appropriate policies and guidelines for such action.

38-1636 - Prosecution as an adult; extended jurisdiction juvenile prosecution; burden of proof; authorization

K.S.A. 38-1636 was amended in subsection (a)(1), (2), (3) and (4) to make a policy change and not require only a county or district attorney's personal signature on the motion for prosecution as an adult or for an extended jurisdiction juvenile prosecution but also to allow a designee to file the motion. In addition, a policy change is included in the amendments to subsection (a)(2) and (a)(4) which add severity level 3 drug felonies to the list of offenses for which a juvenile is presumed to be an adult or presumed to be subject to an extended juvenile jurisdiction prosecution.

Subsection (h) is amended to provide that if the juvenile is not convicted, the authorization for prosecution as an adult shall not attach and shall not apply to future prosecutions of the juvenile which are or would be cognizable under code.

#### 38-1637 - Proceedings to determine competency

This section contains two policy changes. The first found in subsection (b)(2)(A) is an amendment to allow the court to appoint one rather than two licensed psychiatrists or psychologists to examine the juvenile. The requirement of two separate examiners was thought to be unnecessary.

Subsection(b)(3) contains a policy change which allows the court to excuse the presence of the alleged juvenile offender if attendance at the proceedings would be injurious to his or her health.

#### 38-1638 - Proceedings to determine competency; commitment of incompetent

The use of the term "public" is intended to broaden the description of available facilities.

#### 38-1652 - Hearing; open to the public; restriction

Subsection (a) contains a policy change in that it allows a hearing for an alleged juvenile offender who is less than 16 years of age at the time of the offense to be closed if the judge determines it is in the best interests of the victim or the juvenile to close the hearing. Currently, only the best interests of the alleged juvenile offender are cited in the statute.

#### 38-1656 - Jury trials in certain cases

There is a policy change contained in the proposed amendment to this section which grants juveniles in felony cases the right to trial by jury upon request. Under current law a juvenile may receive a jury trial at the discretion of the court. Neither the United States Supreme Court nor the Kansas Supreme Court has afforded juveniles the right to a trial by jury. However, because juvenile adjudications are scored in adult criminal history, it is believed to be appropriate to give the juveniles the right to a jury trial in felony cases.

#### 38-1661 - Post adjudication orders and hearings

The amendment eliminating the statutory requirement for a statewide sentencing risk assessment tool was made because the current tool was designed for use by court services officers and was not intended for judges use in sentencing. In addition, the Committee was concerned with language in K.S.A. 38-1661(a) which makes use of sentencing reports discretionary and seems to conflict with language in (b) which can be interpreted as making use of the "sentencing risk assessment tool" mandatory.



Another policy change is that the amended section allows courts to access expenses with reference to all four information gathering tools, as opposed to only psychological evaluations under the current statute.

In addition, the term “post-adjudication” is used instead of “presentencing” to allow the court more flexibility in the use of information gathering tools.

#### 38-1663 - Sentencing alternatives

Subsection (a) cross-references provisions requiring findings related to the Adoption and Safe Families Act of 1997.

Subsection (d) includes language that states a restitution order represents a judgement against the juvenile offender and may be enforced by civil process even after termination of the court’s jurisdiction over the juvenile.

Subsection (e) has been amended to increase the maximum amount of a fine to \$1,000 and provide that a fine is a judgement against the juvenile offender and may be enforced by civil process, even after termination of the court’s jurisdiction.

In subsection (f) the initial commitment to a sanctions house may be for up to the entire 28 day maximum, subject to review every 7 days. This is a change from existing law which permits commitment for only increments of 7 days or less, up to the 28 day maximum. In addition, the amendment allows immediate sanctions house placement rather than first requiring a probation violation or an assignment violation.

#### 38-1665 - Modification of sentence

Subsection (b) contains language implementing the Adoption and Safe Families Act of 1997.

#### 38-1666 - Violation of condition of probation or placement

This section was amended to require a hearing on an alleged probation or placement violation only if requested by the commissioner, a parent, or one of the parties, or on the court’s own motion, rather than having the hearing be automatic.

Subsection (b) contains language implementing the Adoption and Safe Families Act of 1997.

#### 38-1669 - Sentencing juvenile offenders; placement matrix; placements based on offense committed; aftercare term; placement matrix chart

In subsection (b) there are two small policy changes in the definition of “placement failure.” The subsection is amended to state that if the Juvenile Justice Authority returns a juvenile to his or her

home on conditional release and that placement fails, that failure qualifies as a placement failure. Currently a placement failure requires on "out-of-home" failure. The subsection is also amended to state that the juvenile does not have to be placed on probation for there to be a placement failure.

38-1670 - Good time credits; rules and regulations of commissioner; minimum sentence

Subsection (b) contains a policy change because it requires, rather than authorizes, the Juvenile Justice Authority to adopt rules and regulations to carry out provisions of the section regarding good time credits.

38-1674 - Commitment to juvenile correction facility; conditional release; failure to obey; authorized dispositions

This section contains a policy change which requires a hearing on a report of the conditional release violation only if requested by the county or district attorney or upon the court's own motion. Currently any officer assigned to supervise compliance with the conditions of release may also file a motion for the hearing.

38-1676 - Release of juvenile offenders for acts committed before July 1, 1999; notice to county or district attorney, victim, local law enforcement agency and school district; hearings

Subsection (a) contains a policy change which requires the county or district attorney to give written notice of the discharge pursuant to K.S.A. 38-1677a. This adds the victim to the list of persons who receive notice of discharge.

In addition, in subsection (a), notice is now required if the juvenile offender committed a nondrug crime ranked at severity level 4 or 5 and if the juvenile offender committed a drug crime ranked at severity level 3.

38-1681 - Orders appealable by juvenile; appeal of departure sentence, procedure

Subsection (a)(1)(B), which gives a juvenile who is acquitted an appeal from the order authorizing prosecution as an adult, is stricken.

38-1683 - Appeals; procedure

The section contains a policy change which provides that appeals from a district magistrate judge are to be by trial *de novo* unless parties agree to *de novo* review on the record of the proceedings. If a *de novo* review is on the record it is limited to the record, in a trial *de novo* both sides may present evidence.

The section was also amended to eliminate the right of the juvenile offender to call additional witness, on appeal, that were not called at the original proceeding.

1 reimbursement for attending meetings of the study group authorized by  
2 the Legislative Coordinating Council consistent with the provisions of  
3 K.S.A. 46-1209 and amendments thereto; and

4 *Be it further resolved:* That the staff of the legislative research de-  
5 partment, the office of the revisor of statutes and the division of legislative  
6 administrative services shall provide such assistance as may be requested  
7 by the study group.  
8

1-23

38-1692 - AIDS testing and counseling of certain offenders and victims

The section was amended to include parents of minor victims in the list of those who get notice of availability of AIDS testing and to give minor victims' parents the right to request AIDS testing of the person charged.

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*Session of 2000*

**Senate Resolution No. 1862**

By Senator Pugh

4-28

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A RESOLUTION establishing a study group to study and make recommendations as to the Kansas Juvenile Offenders Code and the Kansas Code for Care of Children.

*Be it resolved by the Senate of the State of Kansas:* That a study group on the Kansas Juvenile Offenders Code and the Kansas Code for Care of Children be formed, which study group shall be composed of 15 members to be appointed by the Legislative Coordinating Council as follows: A member of the Kansas Bar Association, a district judge, a magistrate judge, a professor from the faculty of the School of Law of the University of Kansas, a professor from the faculty of the School of Law of Washburn University, a representative of the Department of Social and Rehabilitation Services, a District or County Attorney, a member of the Kansas Judicial Council, a law enforcement officer and six members of the Kansas legislature. The individuals appointed to this study group need to be individuals who are interested in this area of the law and who possess a broad legal background and practical experience or scholastic endeavor pertaining to the application of the Kansas Code for Care of Children and the Kansas Juvenile Offenders Code. The chairperson and the vice-chairperson shall be designated by the Legislative Coordinating Council; and

*Be it further resolved:* That the study group shall meet upon the call of the chairperson of the study group as authorized by the Legislative Coordinating Council; and

*Be it further resolved:* That the study group shall study the current system regarding the disposition of young people who become subject to the provisions of the Kansas Juvenile Offender Code and the Kansas Code for Care of Children, hear comments from qualified participants in the current system as to its operation, consider programs from other jurisdictions and the writing of academicians on this subject. The study group shall develop its findings and recommendations for changes in the law or complete recodification thereof as it deems appropriate and report such findings and recommendations to both houses of the legislature not later than January 8, 2001; and

*Be it further resolved:* That members of the study group shall receive

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TOPEKA  
 HOUSE OF  
 REPRESENTATIVES

REPRESENTATIVE, SIXTY-FOURTH DISTRICT  
 CLAY, DICKINSON, GEARY,  
 AND RILEY COUNTIES

STATE CAPITOL  
 ROOM 303-N  
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 (785) 296-7637

COMMITTEE ASSIGNMENTS  
 CHAIR: EDUCATION  
 MEMBER: EDUCATION BUDGET

**TESTIMONY HB 2050  
 AMENDING K.S.A. 22-2908 RELATING TO  
 DIVERSION AGREEMENTS**

Thank you Chairman Loyd and committee members for taking my testimony on HB2050 into consideration.

I work with youth in my community in the capacity of a Youth Center Director, and as a Youth Pastor's spouse. It is amazing what kids and their parents will tell you. I am very outspoken in regard to youth using drugs and consuming alcohol and believe the court system is the last line of defense for some of these kids.

Clay County has a population of around 9000. We are a small community. Drugs and alcohol use are major problems. The high school principal told me in December that the abuse they are seeing through the school is worse than at any other time in the past 5 years. Parties are taking place almost every weekend, with parents being the supplier in many of the cases.

Our sheriff and city police have taken a stand of zero tolerance. If you are busted you are written up and the rest is up to the county attorney. Numbers are up on the cases being filed but the kids still think it is a joke. First time offenders are placed on a diversion that is somewhat strict and are expected to complete the guidelines. The problem comes when the same youth is picked up again.

A parent called me before session started and said her son had been placed on a diversion, sent away to treatment (her choice) and the weekend he got home went to a party. The mother tore up his diversion and told him she was going to go back to the authorities to get some help. Both the son and his best friend laughed and said "Go ahead, there will just be another piece of paper filed." The friend stated he had been busted three time since his diversion, nothing changed.

One of my favorite authors wrote "When a sentence against a crime isn't carried out quickly, people are encouraged to commit crimes." Ecclesiastes 8:11 Young people need to have swift and just actions taken to show they cannot do whatever they want and get away with it. If we have a tougher diversion law some of these youth will be deterred from committing illegal acts in the future.

H. Corr & J.J.  
 2-13-03  
 Attachment 2





# Clay County Sheriff's Department

Chuck Dunn  
Sheriff

Lonnie Adams  
Undersheriff

539 Lincoln, P.O. Box 115, Clay Center, Kansas 67432-0115

Telephone (785) 632-5601

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## Corrections and Juvenile Justice Committee

Giving a diversion for first time criminal or traffic offense was set up to be in the best interest of justice, and the defendant, and the community. It seems the offender is getting the diversion without the merits of the diversion being brought before the law enforcement officer or the victim having any input what so ever. The diversions are sometimes granted because the defendant is willing to pay a higher fine or diversion fee to keep his/her record clean.

Giving a second diversion while a first is still in effect, or the defendant is known to have been given a diversion in the past does nothing but make a mockery of the law involving diversions. Extending a diversion because of a violation of stipulations of a current first diversion is nothing short of giving a second. I realize that with a juvenile there are great limitations on what else can be done to satisfy the punishment for violations of a diversion. The adult case is a different story. To many adults get a diversion in different counties on criminal/traffic offenses because the district attorney fails to send the diversion into the state, or the persons in charge of entering the diversion agreement does not get it entered. In checking with just 2 persons, that I know of in Clay Co, that have been granted diversions, the record of diversion has not been entered by the state, for what reason, I don't know. Each of the persons checked on have been given 2 separate diversions.

There also need to be a time limit as to how long a district attorney can set on a report of a diversion violation before filing a revocation hearing. Too many times the violations are put off until it's close to time for the first diversion to expire. Then they are pressed with the decision as to extend the diversion, end the diversion, or revoke the diversion. Sometime the district attorney requires several violations before revoking the diversion is considered.

I believe every person is entitled to be considered for a diversion, but there needs to be better communication before diversions are given, and better records of diversions keep both at the local and state level.

Thank You,

A handwritten signature in cursive script that reads "Chuck Dunn".

Chuck Dunn  
Clay County Sheriff

H. Corr : J.J.

2-13-03

Attachment 3



## SEDGWICK COUNTY, KANSAS

### SHERIFF'S DEPARTMENT

COUNTY COURTHOUSE • 525 N. MAIN • WICHITA, KANSAS 67203 • TELEPHONE 383-7264 • FAX 383-7758

### TESTIMONY HB 2132 Before The House Committee of Corrections and Juvenile Justice February 13, 2003

Honorable Chairman Loyd and members of the committee, I appreciate the opportunity to testify in support of HB 2132. I am the Sheriff of Sedgwick County and have also been in law enforcement for the past twenty-five years. I am appearing on behalf of the Board of County Commissioners of Sedgwick County, the Sedgwick County Sheriff's Department and the Kansas Sheriff's Association in support of this legislation.

HB 2132 would be a minor amendment to K.S.A. 19-1930(d) which would increase the amount not to exceed from \$10 per day to \$20 per day what a work release inmate would be required to pay to defray the cost of maintaining such inmate in the county jail. Sedgwick County implemented its work release program in 1974 but did not start assessing the inmate a charge until 1988. This is the first request for an increase in the per diem charge to the inmates.

For the past six years, over one thousand inmates per year (both male and female) have participated in the Sedgwick County Work Release Program. All inmates that participate in the work release program are sentenced to the program by the presiding judge on their case. The program is entirely voluntary and we have had inmates refuse to participate in the program. Most of the inmates in the program are in custody on traffic related or misdemeanor drug offenses and want to maintain their current employment arrangement.

*Cost  
< new  
\$960,000  
\$100,000 >  
would expect collections  
increase up to  
\$200K*

*H. Corr; J.J.  
2-13-03  
Attachment 4*

The Sedgwick County Work Release Program is a short-term confinement option with the average length of stay being from 30-40 days. Many of the inmates maintain a residence in the community while participating in the program. Inmates that are not employed but are assigned to the program are not assessed a charge while they are looking for employment. Approximately, 45% of the inmates pay the \$10 per day. Approximately, 36% of the inmates pay \$2.50 per day and 22% do not pay anything as provided by the hardship provision in K.S.A. 19-1930 (d).

A Sheriff is not required to operate a work release program and this program is a benefit to the inmates participating in the program. Over \$1.8 million dollars has been collected from work release inmates since 1990 under the provisions of K.S.A. 19-1930(d). In 2001, \$152,484 was collected from the inmates and in 2002, \$130,170 was collected. This is a substantial amount of money that helps defray the cost of providing the program. Since 2002 the program has been expanded and the eventual plan is to house an additional 43 inmates. With this expansion and raising the per diem rate it is projected that the monies collected from inmates could increase to over \$200,000 per year.

But even with the revenue collected from inmates, the program doesn't begin to pay for itself. Estimates of the cost of running the program in Sedgwick County are slightly over \$960,000 per year. The bottom line is that the taxpayers of Sedgwick County should get some relief by having the inmates foot a larger portion of the bill for their upkeep.

We strongly urge your support for HB 2132.

81





**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

WRITTEN TESTIMONY

Before the House Corrections and Juvenile Justice Committee  
HB 2132

February 13, 2003

By Judy A. Moler, General Counsel/Legislative Services Director

Thank you Chairman Loyd and Members of the Committee for allowing the Kansas Association of Counties to provide written testimony on HB 2132.

The Kansas Association of Counties supports HB 2132 as passage of the bill would allow the counties to recoup a more realistic amount from work release prisoners housed in county jails. By increasing the amount to \$20 dollars, this bill allows counties to keep pace with wages currently earned as the bill has not been amended since 1988.

The Kansas Association of Counties supports the passage of HB 2132.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

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H. Corr & J. J.  
2. 13. 03  
Attachment 5