

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman John Vratil at 9:37 a.m. on February 18, 2003, in Room 123-S of the Capitol.

All members were present.

Committee staff present: Mike Heim, Kansas Legislative Research Department
Lisa Montgomery, Office of the Revisor of Statutes
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Jeff Bottenberg, State Farm Insurance
Captain Bob Hinshaw, Sedgwick County Sheriff's Department
Dave Zable, Douglas County Assistant District Attorney
Tom Drees, Ellis County District Attorney
Doug Murphy, Kansas Peace Officers Association (written only)
Roger Werholtz, Secretary of Corrections
Kyle Smith, Kansas Bureau of Investigation (written only)
Sonny Scroggins, National Action Network

Others attending: see attached list

SB 111 - Presumed imprisonment at minimum security correctional facility for certain persons convicted of burglary and construction of additional housing therefor

Chairman Vratil opened the hearing on **SB 111**. Conferee Bottenberg testified in support of **SB 111** as it would require imprisonment at a state minimum correctional facility for repeat burglars. He stated that sending repeat burglars to state correctional facilities will not only reduce the frequency of such crimes, but will help give their victims a sense of security and relief that may not be accomplished through financial compensation alone. (Attachment 1)

Captain Hinshaw appeared before the Committee on behalf of the Sheriff of Sedgwick County in support of **SB 111**. He explained that **SB 111** amends K.S.A. 2002 Supp. 21-4704, to allow the use of any comparable prior juvenile adjudication or out of state conviction to be used in computing criminal history under the sentencing guidelines. He said that under this bill, incarceration in a minimum custody or security facility would be mandated for persons who had three prior convictions. (Attachment 2)

Conferee Zable testified on behalf of the Kansas County and District Attorneys Association in support of **SB 111**. He explained the sentencing guidelines grid for non-drug crimes that appears on page 2 of the bill, the four types of burglary, and the severity levels. He stated that the proposed bill would rectify the current situation where a perpetual burglar of motor vehicles and/or businesses would never go to prison. He said the **SB 111** recognizes that a person that perpetually burglarizes motor vehicles and businesses belongs in the same place as a person who repeatedly burglarizes residences—prison. (Attachment 3)

Thomas Drees, Ellis County Attorney, submitted written testimony in support of **SB 111**, in which he stated that after a repeated history of property offenses, the victim and the public deserve some retribution and a short prison sentence is warranted and necessary. (Attachment 4)

Doug Murphy submitted written testimony in support of **SB 111** on behalf of the Kansas Peace Officer's Association. (Attachment 5)

Kyle Smith, Kansas Bureau of Investigation, submitted written testimony also on behalf of the Kansas Peace Officer's Association in support of the passage of **SB 111**. (Attachment 6)

Secretary of Corrections, Roger Werholtz, testified as a neutral conferee on **SB 111**. He said the Corrections Department is concerned that **SB 111** creates an expectation that is inconsistent with the Department's custody classification policies and practices, and recommended that provisions pertaining to presumptions regarding custody classification be deleted. (Attachment 7)

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE on February 18, 2003 in Room 123-S of the Capitol.

After Committee discussion and questions, attention was directed to the fiscal note on **SB111** which included projected costs and bed space impact. (Attachment 8)

Chairman Vratil closed the hearing on **SB 111**.

SB 189 - Inmates sentenced to prison for possession of drugs to serve in a minimum security facility

Chairman Vratil opened the hearing on **SB 189**. Conferee Zable submitted written testimony in support of the proposed bill on behalf of the Kansas County and District Attorneys' Association. In his testimony he explained that the proposed bill would keep the current sentencing structure for felony drug offenses in place, and at the same time, address prison over-crowding in the state's maximum and medium security prisons. He said the current drug grid distinguishes between dealers and users, and also recognizes that a persistent drug user is a very real threat to the safety of the community. He said the current law does not send a mere user of drugs to prison unless there have been repeated violations, thus proving that treatment without incarceration is not viable. (Attachment 9)

Kyle Smith, Kansas Bureau of Investigation, submitted written testimony on behalf of the Kansas Peace Officer's Association endorsing the proposed changes in **SB 189**. (Attachment 10)

Secretary Werholtz provided written testimony on **SB 189**, and commented that like **SB 111**, **SB 189** creates an expectation that will not be produced. He said the Corrections Department recommended **SB 189** not be passed out of the Committee. (Attachment 11)

Conferee Scroggins testified against **SB 189**, and said it was a short term solution to a long term problem. He stated that this bill spends money that the state doesn't have, and money that does very little to rehabilitate. (Attachment 12)

After brief discussion and questions, the Chairman directed the Committee members to review the fiscal note on **SB 189** (Attachment 13) and the bed space impact statement from the Kansas Sentencing Commission. (Attachment 14)

The Chair closed the hearing on **SB 189**.

Final action on:

SB 91 -Law enforcement training center, qualifications and officer training requirements

Chairman Vratil reviewed **SB 91**. Senator Donovan made a motion to amend by adding a three year sunset provision on the bill, and recommend it favorably as amended. The motion was seconded by Senator Schmidt, and the motion carried.

SB 71 - Kansas payment center; removal of sunset provision

Chairman Vratil reviewed **SB 71**. Senator Goodwin suggested that the Oversight Committee cease to be in existence since it is no longer needed. The Chair shared with the Committee that he had received a letter from Secretary Schalansky that morning saying that in a separate statute the Oversight Committee was also repealed.

Senator Goodwin moved to recommend SB 71 favorably, seconded by Senator Gilstrap, and the motion carried.

The meeting adjourned at 10:30 a.m. The next scheduled meeting is February 19, 2003.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Tues., Feb. 18, 2003

NAME	REPRESENTING
<i>Roger Wecheltz</i>	<i>KDOC</i>
<i>Marcus Dingle</i>	<i>SRS</i>
<i>Jamie Corkhill</i>	<i>SRS</i>
<i>Sonny Scroggins</i>	<i>National Action Network</i>
<i>Jesse Jones</i>	<i>Stevens Co Leadership</i>
<i>Jan Bronard</i>	<i>Stevens Co.</i>
<i>Kyle Smith</i>	<i>KBI</i>
<i>Trissa Curzydlo</i>	<i>KBA</i>
<i>Jeff Rottenberg</i>	<i>KS St. 48 / KPOA</i>
<i>Robert Hinshaw</i>	<i>Seoawick Co. Sheriff</i>
<i>Michael White</i>	<i>KCPAA</i>
<i>Barbara Jones</i>	<i>KSC</i>
<i>Fred Hill</i>	<i>STEVENS CO. LEADERSHIP</i>
<i>JEFF ORWIG</i>	<i>STEVENS CO LEADERSHIP</i>
<i>Tom Hickey</i>	<i>JV Co Leadership</i>
<i>Darrin Hewitt</i>	<i>Leadership Stevens Co.</i>
<i>Mary Beth Kidd</i>	<i>Juniata Justice Authority</i>
<i>Amy Bertrand</i>	<i>Judicial Branch</i>

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Memorandum

TO: THE HONORABLE JOHN VRATIL, CHAIRMAN
SENATE JUDICIARY COMMITTEE

FROM: JEFFERY S. BOTTENBERG, LEGISLATIVE COUNSEL
STATE FARM INSURANCE COMPANIES

RE: SB 111

DATE: FEBRUARY 18, 2003

Mr. Chairman, Members of the Committee: My name is Jeff Bottenberg and I represent State Farm Insurance Companies ("State Farm"). We appreciate the opportunity to appear in support of SB 111, which would require imprisonment at a state minimum correctional facility for repeat burglars. State Farm is the largest insurer of homes in the United States and Kansas, insuring one out of every four homes in the U.S.

State Farm supports legislation that would eliminate the potential for persons to burglarize the homes of our policyholders. The financial impact of unwarranted home invasions and burglaries is easy to calculate. In the year 2000 theft accounted for approximately 5 percent of homeowner insurance losses nationwide, and such losses totaled approximately 1.10 billion dollars. In Kansas, approximately 8 percent of homeowner insurance losses for 2001 and 2002 were due to theft. According to the FBI, in the year 2000 the most frequently stolen items were:

1. Jewelry and precious metals
2. Clothing and furs
3. Office Equipment
4. Televisions, radios, stereos, etc.
5. Firearms
6. Household goods

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One AmVestors Place
555 Kansas Avenue, Suite 301
Topeka, KS 66603
Telephone: (785) 233-1446
Fax: (785) 233-1939

Although it is easy to calculate the financial impact of burglaries, the emotional component of such invasions is incalculable, and no amount of financial compensation can take the place of a person's sense of security and comfort, which in many cases is irretrievably lost.

Sending repeat burglars to state correctional facilities will not only reduce the frequency of such crimes, but will help give their victims a sense of security and relief that may not be accomplished through financial compensation alone. For the above reasons, State Farm strongly supports SB 111. Please do not hesitate to contact me if you have any questions regarding this or any other matter.

Respectfully Submitted,



Jeff Bottenberg

JSB

G:\LOBBY\sb 111.doc

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SEDGWICK COUNTY, KANSAS

SHERIFF'S DEPARTMENT

141 WEST ELM ✪ WICHITA, KANSAS 67203 ✪ TELEPHONE: (316) 383-7264 ✪ FAX: (316) 383-7758

TESTIMONY SB 111 Before The Senate Judiciary Hearing February 12, 2003

Honorable Chairman Vratil and members of the committee, I appreciate the opportunity to testify in support of SB 111. My name is Robert Hinshaw. I am a Captain with the Sedgwick County Sheriff's Department and have served in several capacities within the department for the past twenty-four years. I am appearing on behalf of the Sheriff of Sedgwick County in support of this legislation.

SB 111 amends K.S.A. 2002 Supp. 21-4704, allowing the use of any comparable prior juvenile adjudication or out of state conviction to be used in sentencing guidelines when a person has been convicted of violation(s) of K.S.A. 21-3715(a). This particular subsection of the burglary statute addresses those persons who violate a person's home with the intent to commit a felony, theft or sexual battery. Allowing the use of a person's prior criminal history in this manner we feel is appropriate. Perhaps one of the most cherished beliefs is the right to feel safe and secure in one's own home. When someone has already violated the sanctity of a citizen's home once, more stringent punishment should be an option available to the courts, regardless of whether the prior conviction occurred out of state, or was the result of a juvenile adjudication. Previously, such conviction most often resulted in probation from adherence to the sentencing guidelines. Under this amendment incarceration in a minimum custody or security facility will become the norm.

Another change the amendment makes is to make a presumption of imprisonment for conviction of violating K.S.A. 21-3715 (b) or (c) when a person has three prior convictions under any subsections of K.S.A. 21-3715 or 21-3716. The amendment also allows for use of juvenile adjudications or out of state convictions of comparable violations when determining appropriate sentencing. Previously, the sentencing guidelines would result in a convicted person receiving probation, even after a fourth conviction. Under this amendment, incarceration in a minimum custody or security facility would become mandated. The sheriff's department worked three hundred and eighty-seven burglaries last year and eighty-eight individuals were held accountable for the one hundred and thirty-eight cleared. Additionally, there were fifteen more cases that these same suspects probably committed, but there was insufficient evidence to charge. Incarceration under the current system is under-realized. The question becomes, after three prior convictions should not an individual begin to pay a debt to society? For the above reasons, the Sedgwick County Sheriff's Department strongly supports SB 111.

<http://www.sedgwick.ks.us/sheriff/>

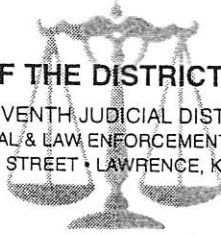
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Attachment 2-1

OFFICE OF THE DISTRICT ATTORNEY

SEVENTH JUDICIAL DISTRICT
JUDICIAL & LAW ENFORCEMENT CENTER
111 E. 11th STREET • LAWRENCE, KS 66044-2909



CHRISTINE E. KENNEY
DISTRICT ATTORNEY
DOUGLAS COUNTY, KANSAS

TELEPHONE (785) 841-0211
FAX (785) 832-8202
www.douglas-county.com

February 18, 2003

Chairman Vratil
Kansas Senate Judiciary Committee

RE: Testimony in Support of Senate Bill 111

Dear Chairman Vratil and members of the Committee:

I appreciate the opportunity to appear before this committee on behalf of the Kansas County and District Attorneys Association to support Senate Bill 111. The proposed bill would rectify the current situation where a perpetual burglar of motor vehicles and/or businesses would never go to prison.

BACKGROUND AND CURRENT STATE OF THE LAW

When the Kansas Sentencing Guidelines (KSGA) was passed, the crime of burglary was divided into four different types. Burglary of an occupied structure is referred to as "aggravated burglary" and is a severity level 5, person felony (K.S.A. 21-3716). Burglary of an unoccupied dwelling is a severity level 7, person felony (K.S.A. 21-3715(a)). Burglary of a non-dwelling structure (i.e. a business) is a severity level 7, non-person felony (K.S.A. 21-3715(b)). Burglary of a motor vehicle is a severity level 9 non-person felony (K.S.A. 21-3715(c)). These types of burglaries and their respective classifications have not changed since their enactment.

In 1999, the Legislature added subsection (l) to K.S.A. 21-4704. That subsection reads: "The sentence for a violation of subsection (a) of K.S.A. 21-3715 and amendments thereto when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716 and amendments thereto shall be presumed imprisonment." This amendment made the sentence presumptive imprisonment for anyone convicted of a burglary of a dwelling if the person had previously been convicted of any type of burglary except burglary of a motor vehicle. Without this amendment, a person convicted of a burglary of a dwelling could have a long history of non-dwelling burglaries and escape prison because only a person with a criminal history of "B" (2 person felonies) would fall into a presumptive prison box.

The 1999 amendment to K.S.A. 21-4704 recognized that individuals who stand convicted of burglarizing a dwelling are a threat to public safety, whether or not they have committed prior person felonies, if that individual has previously been convicted of burglarizing a dwelling or business. The 1999 amendment did not enhance sentences of persons whose current conviction

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was for a non-dwelling burglary. In addition, a person convicted of a burglary of a dwelling would not be subject to presumptive prison if the prior burglary conviction(s) were of a motor vehicle.

PROPOSED AMENDMENT WOULD SEND ALL "PERPETUAL" BURGLARS TO PRISON

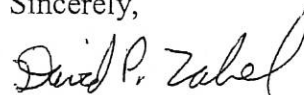
Senate Bill 111 keeps the 1999 amendment to the statute and also addresses offenders who repeatedly commit non-dwelling burglaries. A person who committed a burglary of a business or of a motor vehicle would be sent to prison if the person had previously committed three burglaries of any type.

This amendment is consistent with the KSGA's goal of sending repeat offenders to prison. The bill recognizes that it is not only persons who burglarize residences that pose a threat to society. At the same time, the amendment does rationally distinguish between a person who burglarizes dwellings and a person who burglarizes places that are not likely to be occupied. The former only gets one "strike" while the latter would get three "strikes" before going to prison.

Senate Bill 111 also states that juvenile adjudications are used for enhancement purposes. This is consistent with the manner in which the KSGA uses juvenile adjudications to compute criminal history.

I am in support of Senate Bill 111 because it acknowledges that persons that consistently commit burglaries of any type pose a very real threat to the community. Senate Bill 111 recognizes that a person that perpetually burglarizes motor vehicles and businesses belongs in the same place as a person who repeatedly burglarizes residences -- prison.

Sincerely,



David P. Zabel

Douglas County Assistant District Attorney

Ellis County Attorney

Tom Scott
Asst. County Attorney

Thomas J. Drees
Ellis County Attorney

Andria L. Cooper
Asst. County Attorney

Monnie R. Schmitt
Office Manager
Victim/Witness Coordinator

David J. Basgall
Asst. County Attorney

February 14, 2003

Kansas Senate Judiciary Committee

RE: In support of Senate Bill 111
"Prison for Habitual Burglars"

Dear Senators:

I apologize for not being present for this hearing, I did appear on Wednesday, February 12, 2003 for the original scheduled hearing time and testified on Senate Bill 123. S.B. 111 was moved to today, February 18, 2003, and my trial schedule does not allow me to appear.

Enclosed is an outline of my testimony explaining the need for S.B. 111. By this cover letter, I wish to augment that testimony.

The current Kansas Sentencing Guidelines do not allow business and vehicle burglars to advance beyond History E, which means that all business and vehicle burglars remain on presumptive probation no matter how many offenses they commit. The Kansas Court of Appeals on three recent cases contained in my outline have ruled that the State cannot upward depart based on the number of prior convictions or current convictions of burglary, because the Kansas Sentencing Guidelines grid takes into account all of their history.

Having prosecuted in rural Kansas for over 13 years, this statute has caused as much frustration for me and the victims/citizens I deal with as any other. It is hard to explain to the businessman on Main Street why an individual who burglarized 40 businesses cannot be sent to prison. Under current law, a business/vehicle burglar who commits four or five burglaries and is convicted the first time, all of those convictions count as the first conviction. Then a second sentencing event occurs where three or four more burglaries have occurred. That counts as a second conviction. The defendant then commits several more burglaries and is convicted, which becomes the third sentencing event. Only after three sentencing events and a new conviction for burglary will the burglar be allowed to be sent to prison. Although this constitutes the defendant's fourth sentencing event, it may be his tenth, fifteenth or twentieth total burglary conviction.

I realize the intent of the sentencing guidelines are to place violent defenders in prison and not property crime offenders. However, after a repeated history of property offenses, the victim and the public deserve some retribution. For the habitual burglar, a short prison sentence is warranted and necessary.

Thank you for allowing me to present this testimony by letter.

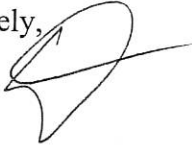
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Thank you for allowing me to present this testimony by letter.

Sincerely,

A handwritten signature in black ink, appearing to be 'TJD', written over a horizontal line.

THOMAS J. DREES
Ellis County Attorney

TJD/gp

Enclosure : Outline testimony supporting 2003 S.B. 111: "Prison for Habitual Burglars" by
Thomas J. Drees

TESTIMONY SUPPORTING 2003 SENATE BILL 111: "Prison for Habitual Burglars"
by:
Thomas J. Drees*

- I. Current burglary law requires police, prosecutors and judges to practice "catch and release" of non-residential burglars.
 - A. Kansas Sentencing Guidelines Act (K.S.G.A) history never advances beyond E-Presumptive Probation.
 - B. Court cannot upward depart to imprisonment under K.S.G.A. based on number of current convictions being sentenced. State v. French, 26 K.A.2d 24 (1999).
 - C. Court cannot depart upward under K.S.G.A. based on number of prior convictions because sentencing grid takes all history into account. State v. Hawes, 22 K.A.2d 837 (1996); State v. Meyer, 25 K.A.2d 195 (1998).
 - D. K.S.G.A. abolished "Habitual Violator Act" under K.S.A. 21-4504(e)(3).
- II. Senate Bill 111 would provide appropriate length of sentence considering prison bed limitations.
 - A. Punishment of crime remains at Level 7 (11-34 months) and Level 9 (5-17 months) on sentencing guidelines grid.
 - B. Sentence to be served at Kansas Department of Corrections minimum security facilities, which have bed space available.
 - C. Bill provides for prison for habitual violator, not self-enhancing statute violator.
- III. Bill provides for prison on fourth sentencing event, not fourth conviction.
 - A. Multiple convictions on same day constitute "one prior conviction" under self-enhancing punishment statute, State v. Rome, 269 Kan.47 (2000); which constitutes a single sentencing event. State v. Loudermilk, 221 Kan. 157 (1976).
 - B. Habitual burglars deserve imprisonment on fourth and subsequent sentencing event.

IV. Suggested Improvement of Senate Bill 111 - Use graduated sanctions.

- A. First sentencing event - Court Service probation.
- B. Second sentencing event - Community Corrections Probation Supervision.
- C. Third sentencing event - optional prison sanction (border-box).
- D. Fourth and subsequent sentencing event - Prison

Thomas J. Drees - Biographical Information:

Kansas County and District Attorneys Association Board of Directors - 1999 to present;
Northwest Kansas Community Corrections Governing Board - 1996 to present;
Ellis County Attorney - 1997 to present;
Trego County Attorney - 1997 - 2000;
Assistant Ellis County Attorney - 1989 - 1996;
Juris Doctorate Degree, University of Kansas School of Law - 1989.

Address - 1204 Fort, Hays, KS 67601
Phone - (785) 628-9405

Testimony in Support of SB 111

Before the House Corrections and Juvenile Justice Committee

Douglas S. Murphy

On behalf of

Kansas Peace Officers Association

February 12, 2003

Chairman Lloyd and Members of the Committee,

I appreciate the opportunity to appear before this committee today on behalf of the Kansas Peace Officers Association to express support regarding SB 111 which would provide for the presumptive imprisonment of those repeatedly committing burglaries.

The amendments provided for in SB 111 would allow for the presumptive imprisonment of those persons convicted of burglary for a fourth time. The bill further provides that such imprisonment will be at a minimum-security correctional facility or as determined by the secretary of corrections.

The Kansas Peace Officer's Association supports this bill because it addresses two major concerns for the safety and welfare of Kansas citizens.

First, any Kansas law enforcement officer can share personal experiences of having investigated burglaries only to find that the person found committing burglaries has not only committed the burglary the officer is investigating, but has committed numerous other burglaries. Imagine the officers frustration when it is found that the person has previous arrests for burglaries for which the person has received probation or is currently on probation.

I speak to this from personal experience and can tell you that it is extremely frustrating to know that you cannot protect the people of your community from these types of predators. I recall one specific career burglar who not only had numerous prior convictions, but had committed numerous burglaries in a number of different counties and was awaiting prosecution on each of the crimes. Because of current sentencing guidelines, once convicted of his crimes his only punishment was probation in five different counties. The only incarceration he could receive was the time spent in county jails waiting for the system to process him through.

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Now, imagine the victim's frustration to learn that the sentencing guidelines do not allow for a person to be imprisoned for acts against the victims homes and property. The system is failing the citizens of Kansas.

SB 111 would allow for the presumptive imprisonment of career burglars and has the support of the Kansas Peace Officer's Association and Kansas law enforcement in general.

Two areas of concern before the legislature this year are the budget crisis and the overcrowding experienced by the Kansas prison system. SB 111 would have a side benefit to both of these issues. Besides providing imprisonment for career burglars, SB 111 provides for their imprisonment in minimum-security facilities. This would open beds in medium- and maximum-security facilities for the housing of more violent criminals.

The one down side to putting career burglars in minimum-security facilities is: due to the number of persons who would be affected by presumptive imprisonment, more minimum-security beds would eventually have to be built. However, these facilities are much less costly to build and operate. And other options exist to further curtail the cost of building and operating minimum-security facilities.

Thank you for your attention. I would be happy to answer any questions you may have.

Testimony in Support of SB 111
Before the Senate Judiciary Committee
Kyle G. Smith
Kansas Peace Officer's Association
February 18, 2003

Chairman Vratil and Members of the Committee,

On behalf of the Kansas Peace Officer's Association we urge your serious consideration and passage of SB 111. We realize that bed space is a premium now and for the foreseeable future. However, there must be a point where criminals discover there are consequences for repeatedly violating the law.

Burglars are not only statistically extremely high recidivists, but they commit an inordinate number of offenses. I remember one case in Emporia where the arrest of three youths eventually cleared over 70 burglaries. Until you have felt the violation of a burglary it is hard to appreciate how seriously this can affect a victim.

The sentencing guidelines consider the seriousness of the offense. However, the guidelines lack a component to consider the frequency of offense; under the current system we've lost our ability to deter what are considered 'minor' felonies. Punishment must not only actually be punishment, but it must be certain. Currently, the only certainty for nonresidential burglaries is in leniency. SB 111 offers a practical approach to put a lid on these repeat offenders and we urge your support.

I'd be happy to stand for questions.

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KANSAS


KANSAS DEPARTMENT OF CORRECTIONS
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Memorandum

DATE: February 18, 2003

TO: Senate Judiciary Committee

FROM: Roger Werholtz 
Secretary of Corrections

RE: SB 111

SB 111 amends K.S.A. 21-4704 to include as criteria for a presumptive sentence of imprisonment for convictions of K.S.A. 21-3715 (a), burglary of an unoccupied dwelling; prior juvenile adjudications and out of state convictions for offenses comparable to K.S.A. 21-3715(a); 21-3715(b), burglary of an unoccupied nondwelling structure; or K.S.A. 21-21-3716, aggravated burglary. Current law provides for a presumption of imprisonment, but the criteria for the application of the presumption does not include juvenile adjudications or out of state convictions.

SB 111 also provides for a presumption of imprisonment for violations of K.S.A. 21-3715(b), burglary of an unoccupied nondwelling structure and 21-3715(c), burglary of a vehicle or other conveyance. A presumption of imprisonment exists for offenders who have three or more prior convictions or juvenile adjudications for burglary or aggravated burglary, including out of state convictions for comparable offenses.

The provisions of SB 111 that the Department of Corrections wishes to bring to the Committee's attention pertain to the presumption regarding the offender's custody classification.

In regard to a presumption that offenders imprisoned for burglary are to be classified as minimum custody inmates, the Department is of the opinion that the custody classification for inmates should not be dependent on convictions for specific crimes. Rather, the Department utilizes an inmate classification manual that evaluates among other things, the length of sentence, time remaining to be served, behavioral characteristics of the individual, institutional behavior, past criminal record, gang affiliations, detainees and other factors that are relevant to the safety of the facility and

the public. The application of the Department's custody classification system to offenders whose most serious crime is burglary currently results in a custody distribution of 49% minimum custody; 32% medium custody; 17% maximum or special management; and 2% who are unclassified.

Additionally, the Department is uncertain of the intent behind the provision requiring that sentences of the offenders covered by the bill "shall be served at a correctional facility that houses inmates having a minimum custody or security classification". Since all KDOC facilities have living units classified as minimum security, our view is that this provision would have no operational impact on the department. If the intent, however, is to prohibit these minimum custody inmates from occupying higher custody beds, then there would be an adverse operational impact on the department. On any given day, minimum custody inmates occupy higher custody beds for a number of legitimate operational reasons, examples of which include: the need for access to a level of medical care that is only available in a higher custody setting; custody classification following admission to KDOC being determined prior to completion of the evaluation process; and, time required to make living unit reassignment following a downward adjustment in custody classification level.

While SB 111 provides for the authority of the Department to override the presumed minimum custody classification and that such overrides would not be subject to judicial review, the Department is concerned that SB 111 creates an expectation that is inconsistent with the Department's custody classification policies and practices.

The Department is appreciative of the inherent recognition contained in SB 111, that sentencing provisions have an impact on prison capacity requirements, but recommends that its provisions pertaining to presumptions regarding custody classification be deleted.

KANSAS

DIVISION OF THE BUDGET
DUANE A. GOOSSEN, DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

February 12, 2003

The Honorable John Vratil, Chairperson
Senate Committee on Judiciary
Statehouse, Room 255-E
Topeka, Kansas 66612

Dear Senator Vratil:

SUBJECT: Fiscal Note for SB 111 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 111 is respectfully submitted to your committee.

SB 111 would change current law regarding sentencing rules related to the crime of burglary. This bill would state that comparable juvenile adjudications and out-of-state convictions for burglary of an unoccupied structure or aggravated burglary would be considered in determining an offender's criminal history. The bill would establish a presumed sentence of imprisonment for the burglary of unoccupied non-dwelling structures and the burglary of vehicles for those offenders who have three prior convictions for burglary or aggravated burglary under Kansas law, or juvenile adjudications or convictions from other states. The imprisonment would be at a Department of Corrections' facility that houses inmates having a minimum-security classification. However, the Secretary of Corrections may classify the offender in accordance with the Department's policies and procedures. The bill would also authorize the Department to expand or construct additional housing for minimum-custody offenders, but would require that the Secretary give priority to facilities for any new construction or expansion projects that already house minimum-security inmates.

According to the Kansas Sentencing Commission, passage of this bill may increase the prison population by 15 to 79 inmates over the ten-year prison population projection period ending June 30, 2012. Under the Sentencing Commission's most recent prison population projections, any additions to the existing prison population would exceed the capacity for male inmates through the ten-year projection period.

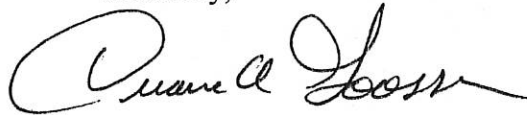
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If the bill's presumption of minimum-security classification for offenders results in the need for additional minimum-security beds, the Department has identified several options at existing facilities. Two options, Winfield and Lansing Correctional Facilities, would involve the renovation of existing buildings at an estimated cost of \$7,585-\$9,948 per bed. Three options, Hutchinson, El Dorado, and Lansing Correctional Facilities, would involve the construction of new minimum-security living units at an estimated cost of \$16,409 to \$20,144 per bed. Ongoing operating costs are estimated at \$18,803 per bed in FY 2004.

If the bill changes the need for higher custody beds, the Department has estimated the cost of adding one or two new 128-cell living units at El Dorado Correctional Facility. Construction costs would be approximately \$28,000 per bed if the cellhouses would be double-celled for medium-security inmates or approximately \$56,000 per bed if the cellhouses would be single-celled for maximum-security inmates. Annual operating costs would range from \$14,000 to \$25,000 per inmate, depending on the security classification of the inmates in the newly constructed living units.

If the bill does not change the need for expansion of capacity, the additional costs would be approximately \$2,000 per inmate for basic support, including food and medical service. Additional costs for health care could also be incurred, if the inmate population requires additional payments according to the existing medical services contract. The bill may eventually contribute to an increased field supervision caseload beyond a level that could be supervised by existing staff. Additional resources in parole services may be necessary in future years.

Sincerely,

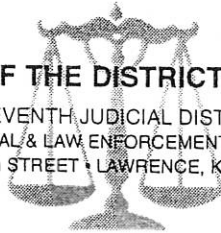


Duane A. Goossen
Director of the Budget

cc: Jan Johnson, Department of Corrections
Barbara Tombs, Sentencing Commission

OFFICE OF THE DISTRICT ATTORNEY

SEVENTH JUDICIAL DISTRICT
JUDICIAL & LAW ENFORCEMENT CENTER
111 E. 11th STREET • LAWRENCE, KS 66044-2909



CHRISTINE E. KENNEY
DISTRICT ATTORNEY
DOUGLAS COUNTY, KANSAS

TELEPHONE (785) 841-0211
FAX (785) 832-8202
www.douglas-county.com

February 18, 2003

Chairman Vratil
Kansas Senate Judiciary Committee

RE: Testimony in Support of Senate Bill 189

Dear Chairman Vratil and members of the Committee:

I appreciate the opportunity to appear before this committee on behalf of the Kansas County and District Attorneys Association to support Senate Bill 189. The proposed bill would keep the current sentencing structure for felony drug offenses in place and, at the same time, addresses prison over-crowding in the State's maximum and medium security prisons.

WHY SENATE BILL 123 IS NOT THE ANSWER

Senate Bill 123 proposes to address the prison over-crowding problem by letting many drug offenders out of prison. The idea being that persons who commit possession offenses do not pose as big a threat to the community as person convicted of selling drugs and that such individuals can effectively be rehabilitated through treatment.

The current Kansas Sentencing Guidelines Act (KSGA) drug grid has, for the most part, been left in its current form since its enactment. The Legislature has occasionally amended the drug laws by taking a tougher stance on drugs. For example, the Legislature changed the manufacture of drugs from a severity level 2 offense to a severity level 1 offense. Prosecutors, defense attorneys, and defendants have made decisions based on the current system. Plea agreements are often entered into with the knowledge that the offender will not go to prison for the current offense but that a subsequent conviction will result in imprisonment. In many instances, a charge of dealing drugs may be reduced to possession of drugs with the knowledge that a subsequent drug offense will result in imprisonment. Therefore, the premise that Senate Bill 123 will let only those who merely possess drugs out of prison is faulty.

Senate Bill 123 also operates under the faulty assumption that repeat users of illegal drugs will be reformed through treatment without incarceration. This premise seems to ignore the reality of the type of offenders who are currently serving prison sentences for possession of drugs. Someone who possesses marijuana will not go to prison for repeated convictions of possession of marijuana. Possession of marijuana is an A misdemeanor on a first offense and is a severity level 4 drug felony on a second or subsequent offense. A person convicted of felony possession

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of marijuana will not go to prison unless every type of probation (i.e. court services, community corrections, and often Labette Correctional Conservation Camp) and treatment fails. The only "treatment" that is going to be effective to someone who has failed all these opportunities is complete abstinence and that can only be guaranteed through incarceration.

The current law does take a tougher stance on someone who possesses opiates, such as cocaine. A first offender will likely receive probation (unless the offender has a prior person felony conviction). A second offense is a severity level 2 drug felony and will result in presumptive prison. Even if one looks only at the treatment aspect of this crime, a repeat offender of a highly addictive illegal substance is not the type of person that is a good candidate for probation. The offender has already been previously convicted and placed on probation with drug treatment as a condition of that probation. Requiring treatment in lieu of prison will likely result in yet another failed treatment and eventually land the offender in prison.

It is a myth that only drug dealers pose a serious risk to society. Second or subsequent possessors of highly addictive drugs are the thieves, burglars, and robbers of society. I suspect there are very few prosecutors who do not believe that drug addiction is not at the root of most property crimes and many crimes against persons.

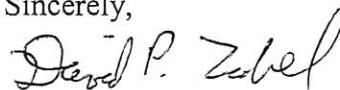
WHY SENATE BILL 189 MAY BE THE ANSWER

Senate Bill 189 would keep in place a sentencing mechanism that has been relied on and used by prosecutors, offenders, defense attorneys, judges, and probation officers for many years. However, consistency in sentencing is not the only reason the current system is fair. The current drug grid does distinguish between dealers and users but it also recognizes that a persistent drug user is a very real threat to the safety of the community. The current laws do not send a mere user of drugs to prison unless there have been repeated violations, thus proving that treatment without incarceration is not viable.

Those who operate in the Kansas criminal justice system understand that the KSGA (both the drug and non-drug grids) will be tinkered with from time to time. For example, drug sentences may be shortened or severity levels changed. However, changing the basic enhancement rules of the drug grid should not be changed. The idea that a repeated illegal activity will eventually land an offender in prison is one of the fundamental tenets of the KSGA.

I am in favor of any legislation that would enable the basic framework of the drug grid to survive. If placing drug offenders in minimum security facilities will enable the current enhancement rules to remain in place, then I strongly support this legislation.

Sincerely,



David P. Zabel

Douglas County Assistant District Attorney



Kansas Bureau of Investigation

Larry Welch
Director

Phill Kline
Attorney General

Testimony in Support of SB 189
Before the Senate Judiciary Committee
Kyle G. Smith
Kansas Peace Officer's Association
February 18, 2003

Chairman Vratil and Members of the Committee,

On behalf of the Kansas Peace Officer's Association we endorse the proposed changes in SB 189. As you know, almost no one is actually sentenced to prison for possession of drugs any more. They are frequently diverted on their first offense and placed on probation for their second and sometimes third offenses. Unfortunately, treatment options are limited and many probationers fail. Eventually the court has little choice but to carry out the sentence originally imposed.

SB 189 is a long term and reasonable approach to minimizing the expense to the state for such revoked prisoners. Most such persons are not violent and minimum security will be more than adequate in providing control. The legislation provides a system for handling those individuals where that presumption is incorrect. Since minimum-security institutions cost less to operate per bed this will save money in the long run.

I'd be happy to stand for questions.


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KANSAS

KANSAS DEPARTMENT OF CORRECTIONS
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Memorandum

DATE: February 18, 2003
TO: Senate Judiciary Committee
FROM: Roger Werholtz 
Secretary of Corrections
RE: SB 189

SB 189 amends K.S.A. 21-4705 to establish a custody classification presumption for offenders sentenced to prison for violations of K.S.A. 65-4160 and 65-4162, possession of controlled substances. SB 189 provides that such offenders shall have a presumption of minimum custody unless the Secretary of Corrections determines that such a custody classification is not in the best interests of the inmate, the public, or the Department of Corrections. In that event, the inmate shall serve his or her term of imprisonment in a correctional facility as determined by the Secretary. The custody classification decisions of the Secretary would not be subject to judicial review.

SB 189 does not alter the number of admissions to the Department or the length of sentences imposed for drug possession offenses, however, the apparent intent of SB 189 is to cause a shift from higher security placements to minimum security beds. The Department appreciates the opportunity to comment on the presumption regarding the offender's custody classification. These concerns have also been raised in my testimony regarding SB 111.

The Department is of the opinion that the custody classification for inmates should not be dependent on convictions for specific crimes. Rather, the Department utilizes an inmate classification manual that evaluates among other things, the length of sentence, time remaining to be served, behavioral characteristics of the individual, institutional behavior, past criminal record, gang affiliations, detainers and other factors that are relevant to the safety of the facility and the public. The application of the Department's custody classification system to offenders whose only active offense for which they are incarcerated is drug possession currently results in a custody distribution of 58.4% minimum custody; 28.3% medium custody; and 13.3% maximum or special management.

While SB 189 provides for the authority of the Department to override the presumed minimum custody classification and that such exceptions would not be subject to judicial review, the Department is concerned that SB 189 creates an expectation that is inconsistent with the Department's custody classification policies and practices.

Additionally, the Department is uncertain of the intent behind the provision requiring that sentences of the offenders covered by the bill "shall be served at a correctional facility that houses inmates having a minimum custody or security classification". Since all KDOC facilities have living units classified as minimum security, our view is that this provision would have no operational impact on the department. If the intent, however, is to prohibit these minimum custody inmates from occupying higher custody beds, then there would be an adverse operational impact on the department. On any given day, minimum custody inmates occupy higher custody beds for a number of legitimate operational reasons, examples of which include: the need for access to a level of medical care that is only available in a higher custody setting; custody classification following admission to KDOC being determined prior to completion of the evaluation process; and, time required to make living unit reassignment following a downward adjustment in custody classification level.

Since the provisions of SB 189 permit the Department to override the minimum custody presumption and the custody classification system utilized by the Department has classified only 58.4% of the offenders whose crime for which they are incarcerated is drug possession as minimum custody inmates, the Department believes that SB 189 creates an expectation that will not be produced. Therefore, the Department recommends that the Committee not report SB 189 favorably.

**NATIONAL ACTION
NETWORK**

To: DISTINGUISHED MEMBERS OF THE SPECIAL COMMITTEE ON JUDICIARY
From: MR. C.E. SONNY SCROGGINS
KANSAS NATIONAL ACTION NETWORK
901 SW TYLER
TOPEKA KANSAS 66612
CC: SPECIAL COMMITTEE ON JUDICIARY
Date: 02/18/03
Re: TESTIMONY AGAINST SENATE BILL 189

I RISE AGAIN IN SUPPORT OF SENATE BILL NUMBER 123 AND IN OPPOSITION TO SENATE BILL NUMBER 189, WHICH IS A SHORT TERM SOLUTION TO A LONG TERM PROBLEM.

Furthermore, The Kansas Sentencing Commission proposal is sound and people based at a time when Kansas prisons are full to capacity. Gov. Kathleen Sebelius and Attorney Phil Kline are requesting more prison time for predators convicted of rape, And increase in the penalty for those who promote prostitution of a minor, someone who tracks down and assault a law enforcement officer at their home, AND FOR THOSE WHO INTENTIONALLY EXPOSE A CHILD TO MANUFACTURING, DISTRIBUTION AND SALE OF METHANPHETAMINES.

It is a simple enough request in light of the threat these crimes pose to public safety. But JESUS, Senate Bill 189 spends money that the state doesn't have, and money that does very little to rehabilitate.

"BY RECONGNIZING THE HUMANITY OF OUR FELLOW HUMAN BEINGS. We pay ourselves the highest tribute" (Thurgood Marshall)

Thanking You ,

C.E. "Sonny" SCROGGINS (CHAPTER LEADER)

bsw

Mr. C.E. "Sonny" Scroggins
Kansas National Action Network
901 SW Tyler
Topeka, KS. 66612
Telephone: (785) 357-8853
E-Mail: biasbustersofkansas@yahoo.com

Prepared for Delivery to the Honorable Special Committee on Judiciary, Kansas Body
Politics. (11 Feb. 2003)

Distinguished Members of the Special Committee on Judiciary

Good Morning to you all. As a member of the National Action Network under the Leadership of the Rev. Al Sharpton on this the 3rd Anniversary of the Official Newsletter of the National Action Network, that I am pleased to extend you my greetings of the day and support of Senate Bill, No. 123, Treatment Measures for nonviolent drug offenders.

The National Action Network endorse the Kansas Sentencing Commissions recommendations for treating rather than incarcerating drug offenders, and encourage Lawmakers to have political courage to vote it into law!!!!

Treatment programs cost far less than incarceration. Some of the money now being used for imprisonment could be used for our Seniors, People with Disabilities, the Homeless, People with Aids, etc. We have gone down the wrong road long enough, draining resources from other programs and services.

Thomas Huxley has said that "the great end of life is not knowledge but action." But we need some knowledge, do we not, in order to distinguish between appropriate and inappropriate, faithful and unfaithful action, political courage, and the lack of it.

The Kansas State Budget is in a rapid state of emergency, to turn it around is going to take a alternate way of life that is rooted in courage, alternatives are available that would help cut crimes, save money, unite families, rebuild individuals lives and communities. It is unimaginable that lawmakers would shirk for an instance their responsibility to provide rehabilitation for drug possession offenders with no history of crimes against other people. (More information can be obtained from Mr. Woody Henderson, President NY Chapter NAN., whopro@aol.com.)

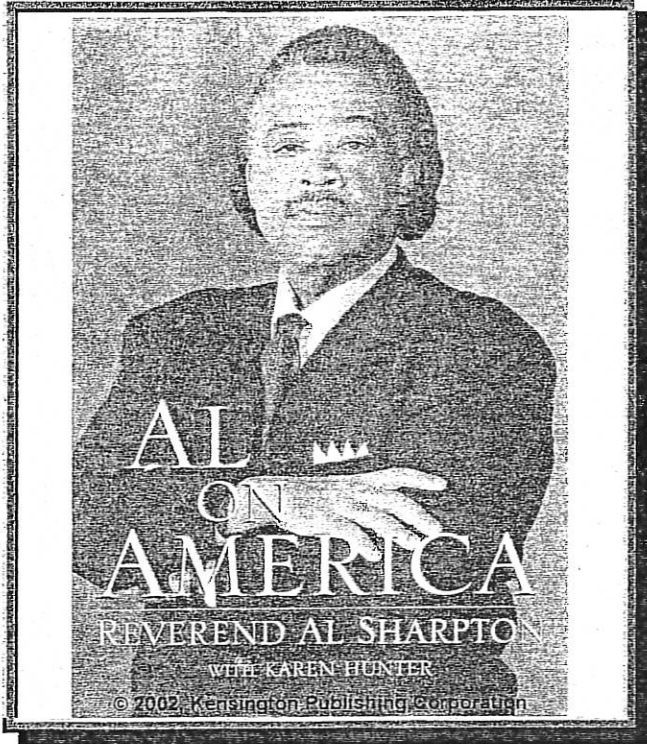
It cannot be reasonably argued that the relatively small cost of the proposed treatment programs, rather than prison compares to the human and dollar cost of not addressing rehabilitation and treatment.

In Thanking You for Your Kind Attention to my remarks , I particularly want each of you to know, that you may expect the National Action Network to be a Champion in favor of Senate Bill No. 123 in the State of Kansas.

I would also hope, the State Body Politics would commit itself, with a greater commitment to rehabilitation and mercy. Penalties that apply without regard to the circumstance of the offense or the character or background is relevant!!!!!!!!!!

It is then, in the spirit of the Jewish oriented "come let us reason together" maxim, that I thank you for the opportunity to share!

Cc The Honorable Kelvin Alexander, Field Director , National Action Network.



NAN Welcomes Tacoma, Washington Chapter
 By Kelvin Alexander, National Field Director

The dream of having an Organization, which spans the entire United States was recently realized when Tacoma, Washington complied with the membership requirements of the National Action Network and qualified for full Chapter status. With the establishment of a solid presence in the great North West, NAN is now able to boast of Chapters in most of the major cities on both the East and West Coasts of the country.

The President of this new Chapter, Mr. Abdullah Mustafa, is young, able and eager to continue the National Action Network's tradition of justice-making and struggling for racial equality throughout the Northwest corridors of America.

On behalf of Reverend Dr. Al Sharpton, our members, supporters and staff, we gladly welcome the members of the Tacoma, Washington Chapter to our NAN family.

HEALTH INSURER DRAWS PROTESTERS FROM NAN KANSAS
 The Associated Press

The article below appeared in the January 21, 2003 edition of *The Capital-Journal*.

A few activists marked Monday's holiday for Dr. Martin Luther King, Jr. by picketing the headquarters of Blue Cross and Blue Shield of Kansas because the company was open for business.

The four protesters were members of Bias Busters, a Topeka civil rights group, and the local chapter of National Action Network, a group led by the Rev. Al Sharpton, a New York activist.

Organizer Sonny Scroggins said Blue Cross and Blue Shield, the state's largest health insurer, is sending the wrong message by not giving all of its employees the King holiday off.

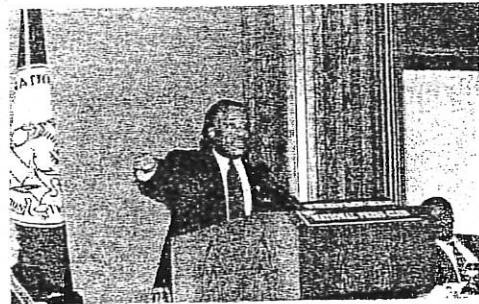
Protester Ronald Lassiter said, "It's a gentle nudge to try to encourage them to get in line with the rest of the nation."

Company spokesman Graham Bailey said Blue Cross and Blue Shield gives its employees "rolling" days off for holidays like the King observance, Lincoln's and Washington's birthdays and Veterans Day, allowing the employee to pick one, two or three to take off, depending on seniority.

But he said the company doesn't shut down its operations completely because it processes 190,000 health insurance claims a day and would inconvenience doctors, hospitals, other providers and policy holders by doing so.

"We try to be as flexible as we can," he said.

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KANSAS

DIVISION OF THE BUDGET
DUANE A. GOOSSEN, DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

February 18, 2003

The Honorable John Vratil, Chairperson
Senate Committee on Judiciary
Statehouse, Room 255-E
Topeka, Kansas 66612

Dear Senator Vratil:

SUBJECT: Fiscal Note for SB 189 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 189 is respectfully submitted to your committee.

SB 189 would require that any prison sentence imposed for drug possession would be served at a correctional facility housing inmates having a minimum custody or security classification. However, if the Secretary of Corrections determines that a classification of minimum custody is not in the best interest of the inmate, public, or the Department of Corrections, the inmate may be reclassified to a higher custody level. The determination of classification by the Secretary would not be subject to judicial review.

Subject to appropriations, SB 189 would authorize the Department to initiate capital improvements for the expansion or construction of additional housing for minimum custody inmates. Priority would be given to projects at correctional facilities that already house inmates classified as minimum custody.

According to the Sentencing Commission, a potential shift of 140 to 187 beds from higher custody levels to minimum custody may occur with the passage of this bill. This estimate is based on the shifting of 75.0 percent of the eligible inmates targeted in the bill to the minimum-security custody classification.

The Department of Corrections indicates that the minimum custody presumption created by this bill may result in a measurable shift in the composition of the inmate population from higher custody to minimum custody. If the shift is large enough that the Department's capacity

The Honorable John Vratil, Chairperson

February 18, 2003

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cannot handle the number of minimum-custody inmates, the Department has identified several expansion opportunities at existing facilities: a 16-bed expansion project at Norton's Stockton Unit at a cost of \$12,500 to \$15,000; a 52-bed expansion project at the Winfield Correctional Facility at a cost of \$35,000; a 150-bed expansion project at the Winfield Correctional Facility at a cost of \$1.5 million; a 250-bed expansion project at the Osawatomie Correctional Unit at a cost of \$1.9 million; a new construction project at the Hutchinson Correctional Facility for 256 beds at a cost of \$4.9 million; a new construction project at the El Dorado Correctional Facility for 256 beds at a cost of \$5.2 million; and a new construction project at the Lansing Correctional Facility for 256 beds at a cost of \$4.6 million. In total, the Department has identified site locations to expand the minimum security capacity beds systemwide by up to 1,236 beds.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Jan Johnson, Department of Corrections
Barbara Tombs, Sentencing Commission



John

State of Kansas

KANSAS SENTENCING COMMISSION

Honorable Ernest L. Johnson, Chairman
District Attorney Paul Morrison, Vice Chairman
Barbara S. Tombs, Executive Director

MEMORANDUM

To: Duane A. Goossen, Director of the Budget
ATTN: Jeff Arpin

From: Barbara S. Tombs
Executive Director

Date: February 13, 2003

RE: Fiscal Note on SB 189 - *JUD*

SUMMARY OF BILL:

- AN ACT concerning crimes; criminal procedure and punishment; relating to possession of controlled substances; sentencing; expansion or construction of minimum security facilities; amending K.S.A. 2002 Supp. 21-4705 and repealing the existing section.
- **Section 1** of this Bill would amend K.S.A. 2002 Supp. 21-4705 (the drug sentencing grid statute) to create a special sentencing rule that any prison sentence for a violation of K.S.A. 65-4160 or 65-4162, be served at a correctional facility that houses inmates with a minimum custody or security classification, unless the Secretary of the Department of Corrections determines otherwise. The Secretary's determination of custody or security classification would not be subject to judicial review.
- **New Section 2** of this Bill provides that subject to appropriations the KDOC is authorized to initiate and complete capitol improvements for the expansion/construction of additional housing for minimum custody or security classification inmates.
- **Section 3** of this Bill repeals the present version of K.S.A. 2002 Supp. 21-4705.
- **Section 4** of this Bill sets an effective date for this act to be from and after its publication in the statute book.

IMPACT ON KANSAS SENTENCING COMMISSION:

Based on the current duties of the Kansas Sentencing Commission, the change proposed in this

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bill will have no affect the following:

1. The current operation or responsibilities of the Commission
2. The current budget of the Commission.
3. The current staffing and operating expenditure levels of the Commission.
4. The long-range fiscal estimates of the Commission.

IMPACT ON PRISON ADMISSIONS:

- Increase by an estimated: _____
- Potential to increase but cannot quantify
- Decrease by an estimated: _____
- Potential to decrease but cannot quantify
- Remain the same

Note: The changes proposed in this bill only designate the custody classification for offenders incarcerated under the designated drug statutes and does not change laws that would increase or decrease prison admissions.

IMPACT ON OFFENDER POPULATION LEVELS:

- have impact on offender population as noted below
- have the potential to impact offender population as noted below.
- have minimal or no impact on offender population.
- have impact but cannot be quantified with data available.

Note: The bill designates incarcerated offenders be placed in minimum security prison beds for incarcerated under the designated drug statutes outlined in this bill. The bill would not change the number of offenders incarcerated but would impact the number of custody classification beds (minimum beds) required. The proposed legislation would result in the need for an additional 140 to 187 minimum custody classification prison beds. Outlined below are the assumptions and prison beds needs by individual years.

KEY ASSUMPTIONS

- The target inmates as defined in this bill include any offenders convicted of the crime of possession of drugs (K.S.A. 65-4160 and 65-4162) and sentenced to prison.
- Projected admission to prison is assumed to increase by an annual average of one point five percent. Bed space impacts are in relation to the baseline forecast produced in September 2002 by the Kansas Sentencing Commission.
- Percentage of target inmate sentences served in prison is assumed to be 85 percent, which is in consistent with the official projections released in September 2002.
- Any offenders convicted of the crime of possession of drugs (K.S.A. 65-4160 and 65-4162) and sentenced to prison will be placed in a minimum custody or security facility

except if Secretary of the Department of Corrections designates otherwise.

- It is assumed that 75% of the offenders will be housed in minimum classification prison beds

FINDINGS

- During FY 2002, 503 offenders were admitted to prison for the crime of possession of drugs. Of that total number, 281 offenders were classified as minimum security, 145 offenders were classified as medium security, 23 were classified as maximum security, 9 were in placed in special management and 45 were designated as unclassified.
- As of June 30, 2002, there were 650 offenders housed in DOC for the crime of possession of drugs. Of that number, 387 offenders were in the minimum security, 205 offenders were in medium security, 29 were in the maximum security, 18 were in special management and 11 were designated as unclassified.
- If current policy remains unchanged, by the year 2004, there will be 430 minimum beds needed and by the year 2013, there would be 571 minimum prison beds required.
- If 75% of the current offenders are placed in minimum custody prison, by the year 2004 there will be additional 140 minimum prison beds needed and by the year 2013 there would be an additional 187 minimum security prison beds required.

Minimum Custody Classification Bed Space Impact Assessment

June of Each Year	If Current Policy Unchanged	If 75% of the Current Offenders Placed in Minimum Custodial Facilities	Additional Minimum Beds Needed
2004	430	570	140
2005	483	639	156
2006	506	671	165
2007	509	675	166
2008	529	702	172
2009	540	717	177
2010	548	727	179
2011	555	736	182
2012	570	757	187
2013	571	757	187