

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 19, 2007 in Room 313-S of the Capitol.

All members were present except:
Jim Ward- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research
Athena Andaya, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Duston Slinkard, Office of Revisor of Statutes
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:
Senator Roger Reitz
Randall Allen, Kansas Association of Counties
Commissioner Michael Kearns, Riley County Commissioner
Paul Morrison, Attorney General
Kyle Smith, Kansas Bureau of Investigation
Ed Klumpp, Kansas Association of Chiefs of Police
Lt. Barry Von Fange, Wichita Police Department
Helen Pedigo, Kansas Sentencing Commission

The hearing on **SB 184 - paying costs related to sexually violent predators**, was opened.

Senator Roger Reitz appeared as the sponsor of the proposed bill which would require the Department of Corrections to pay counties for all costs incurred when determining whether a person is a sexually violent predator. (Attachment 1)

Randall Allen, Kansas Association of Counties, explained that these costs are an unfunded mandate by the state and can't be budgeted for because counties do not know when such a case will be filed. (Attachment 2)

Commissioner Michael Kearns, Riley County Commissioner, commented that these types of proceedings are very expensive. Riley County recently had one that cost \$29,498.26. (Attachment 3)

Paul Morrison, Attorney General, informed the committee that there was an updated fiscal note which projected these costs to be approximately \$1.2 million and requested appropriations for this process. He expressed concern that the Office of Attorney General might have a potential conflict because they are the ones who currently determine who is a sexual predator and with the passage of the bill would be required to fund that person's defense. (Attachment 4)

The hearing on **SB 184** was closed.

The hearing on **SB 166 - clarifying amendments to hard 40 sentence for sex crimes and sex exploitation of a child**, was opened.

Paul Morrison, Attorney General, stated that the bill would clean up an oversight in Jessica's law from the 2006 Legislative Session. It would clarify that sexual exploitation of a child is a severity level 5 person felony unless that child is under the age of 14 and the offender is 18 years of age or older. This would be an off-grid personal felony. The bill also expands the list of sex offenses that were in effect at the time prior to the effective date of Jessica's law. (Attachment 5)

Written testimony in support of the bill was provided by the Kansas Department of Corrections. (Attachment 6)

The hearing on **SB 166** was closed.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on March 19, 2007 in Room 313-S of the Capitol.

The hearing on **SB 97 - third or subsequent convictions for burglary sentence**, was opened.

Kyle Smith, Kansas Bureau of Investigation, appeared as a proponent to the bill which addresses low level felony criminals having a revolving door. They know that they will be sentenced to 24 months of probation and never serve any time in prison.

Ed Klumpp, Kansas Association of Chiefs of Police, explained that the proposed bill would create a special application in sentencing that would made the sentence for third or subsequent conviction of burglary a presumptive prison sentence. The sentence could not be considered a departure sentence and would not be subject to an appeal. (Attachment 7)

Lt. Barry Von Fange, Wichita Police Department, gave several examples of habitual burglars who usually hit businesses to support their drug habit. (Attachment 8)

Helen Pedigo, Kansas Sentencing Commission, requested technical amendments:

- Section 1 - during the 2006 Session, K.S.A. 21-3415 was amended to increase the penalty from a nondrug severity level 6 person felony to a severity level 4 person felony. The special rule pertaining to this crime at severity level 6 is no longer needed.
- Page 4, line 8, strike duplicate language and add language indicating the aggravated battery against a law enforcement officer must be committed prior to July 1, 2006.
- Page 5, line 43 and page 6, line 1, strike the word "either". No special rule is needed as burglary with two prior aggravated burglaries would put the offender at a level 7-B, which is presumptive prison. (Attachment 9)

Written testimony in support of the bill was provided by the Kansas County & District Attorneys Association, Kansas City Kansas Police Department, and Kansas Sheriffs' Association. (Attachments 10 - 12)

The hearing on **SB 97** was closed.

SB 14 - offender registration

The Justice Center provided the committee with a brochure showing policy options to increase public safety and manage the growth of Kansas' prison population. (Attachment 13)

Representative Colloton made the motion to strike the language in SB 14 and replace it with HB 2141 & HB 2142. Representative Kuether seconded the motion. Representative Watkins & Kinzer voiced their concerns with HB 2142 because it substantially decreases ones sentence. The motion carried. Representative Watkins requested he be recorded as voting no.

Representative Colloton made the motion to adopt the balloon which increases good time credits up to 20% for crimes committed after January 2008, and subtracts good time credits from the prison sentence only. Representative Wolf seconded the motion. The motion carried. (Attachment 14)

Representative Colloton made the motion to strike the language that suggest the Kansas Secretary of Corrections will fund services available to counties. (Attachment 15) Representative Wolf seconded the motion. The motion carried.

Representative Colloton made the motion to report Substitute SB 14 favorably for passage. Representative Wolf seconded the motion. The motion carried. Representative Watkins requested he be recorded as voting no.

SB 308 - uniform commercial code, article 7, revisions

Representative Colloton made the motion to report SB 308 favorably for passage, and because of it's non-controversial nature, be placed on the consent calendar. Representative Owens seconded the motion. The

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on March 19, 2007 in Room 313-S of the Capitol.

motion carried.

SB 183 - uniform commercial code, article 1, general provision

Representative Kuether made the motion to report SB 183 favorably for passage, and because of its non-controversial nature, be placed on the consent calendar. Representative Whitham seconded the motion. The motion carried.

SB 88 - restoration of spouse's name after divorce is final

Representative Pauls made the motion to strike on page 8, line 23 the word "before". Representative Colloton seconded the motion. The motion carried.

Representative Yoder provided the committee with a balloon which would allow an individual to designate a new legal name by simply signing their current name and then sign what their official name would be on their marriage certificate. (Attachment 16) He made the motion to adopt the balloon. Representative Owens seconded the motion. The motion carried.

Representative Colloton made the motion to report SB 88 favorably for passage, as amended. Representative Davis seconded the motion. The motion carried.

SB 18 - uniform child abduction prevention act

Representative Davis made the motion to report SB 18 favorably for passage. Representative Garcia seconded the motion. The motion carried.

The committee meeting adjourned at 5:15 p.m. The next meeting was scheduled for March 20, 2007.

STATE OF KANSAS

ROGER REITZ
SENATE 22ND DISTRICT
P O BOX 1308
MANHATTAN KANSAS 66505
(785) 539-1710

STATE CAPITOL--ROOM 136-N
300 S W 10TH
TOPEKA, KS 66612-1504
(785) 296-7360
1-800-432-3924
(SESSION ONLY)



TOPEKA

SENATE

COMMITTEE ASSIGNMENTS
MEMBER: COMMERCE
ELECTIONS AND LOCAL GOVERNMENT
FEDERAL AND STATE AFFAIRS
UTILITIES

If a person suspected of being a sexually violent predator is incarcerated for a crime and is scheduled for release and the prosecutor's review committee has determined that the person meets the definition of a sexual predator this amendment will apply.

The attorney general may file a petition in the county where the person was convicted or charged with a sexually violent offense claiming that the person is such a predator and sufficient facts are available to support such an allegation. The petition from the Attorney General is to be filed within 75 days of written notification by the agency of jurisdiction.

All costs incurred as a result of the incarceration including investigation, prosecution, defense, juries, witness expert fees and expenses, and all other expenses relating to whether a person may be a sexually violent predator shall be the responsibility of the state.

Heretofore, these persons remain in jail while the Attorney General makes a determination in the case and all expenses are paid by the county, an egregious circumstance.

House Judiciary
Date 3-19-07
Attachment # 1

February 13, 2007

The Honorable John Vratil, Chairperson
Senate Committee on Judiciary
Statehouse, Room 281-E
Topeka, Kansas 66612

Dear Senator Vratil:

SUBJECT: Fiscal Note for SB 184 by Senator Reitz

In accordance with KSA 75-3715a, the following fiscal note concerning SB 184 is respectfully submitted to your committee.

SB 184 would require the Department of Corrections to pay counties for all costs incurred in determining whether a person is a sexually violent predator. Under current law, the counties are responsible for these expenses.

Passage of SB 184 would have a fiscal effect on the Kansas Department of Corrections' budget. In early 1994, the Office of the Attorney General estimated that it would cost \$325,000 to cover the counties' portion of the costs of determining whether a person is a sexually violent predator. However, the Department of Corrections does not currently have the data necessary to estimate what the current fiscal effect might be. Any fiscal effect resulting from the passage of this bill would be in addition to amounts included in *The FY 2008 Governor's Budget Report*.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Jackie Aubert, SRS
Dan Gibb, Attorney General's Office
Jeremy Barclay, Corrections
Judy Moler, Kansas Association of Counties



KANSAS
ASSOCIATION OF
COUNTIES

Testimony on SB 184
House Judiciary Committee
Randall Allen, Executive Director
Kansas Association of Counties
March 19, 2007

Chairman O'Neal, I am Randall Allen, Executive Director of the Kansas Association of Counties. I am here today to express strong support for SB 184, a bill amending K.S.A. 59-29a04, the Sexually Violent Predators Act.

At our annual conference held last November, our membership unanimously adopted a position supporting legislation requiring the state to pay the costs of cases filed under the Act. The Association has no disagreement with the intent of the Act; however, we view the financial impact of the Act as an unfunded mandate on county government. The Act provides that the Attorney General has the exclusive authority to initiate the procedure to legally determine whether a person is a sexually violent predator. However, currently all of the costs associated with these proceedings are placed upon the county where the criminal conviction was made. This process is time consuming and expensive, and it is difficult if not impossible to budget for the expenses. For example, in 2003, Riley County paid \$20,050 in just two cases. Smaller counties have even less budget flexibility to handle unforeseen expenses related to sexual violent predator civil commitment processes. For all counties, however, we question the logic of the placing the financial burden on counties when they have no role in initiating the procedure.

County resources are very scarce and although we support the goals of the Act, all Kansas residents through their state taxes should share the cost of enforcement. Enforcement of the Kansas Sexually Violent Predators Act is a state responsibility. As such, we urge the committee to report SB 184 favorably for passage. Thank you.

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. For more information, please contact Randall Allen or Judy Moler at (785) 272-2585.

300 SW 8th Avenue
3rd Floor
Topeka, KS 66603-3912
785•272•2585
Fax 785•272•3585

House Judiciary
Date 3-19-07
Attachment # 2

Testimony before the Judiciary Committee
Regarding Senate Bill 184
March 19, 2007
Michael B. Kearns
Chairman, Riley County Board of Commissioners

Mr. Chairman and distinguished members of this Committee. My name is Michael B. Kearns and I am a Riley County Commissioner.

I am testifying regarding S.B.184 and the need to place the cost of sexual predator commitment cases with the State of Kansas.

The issue we are addressing is the unreasonable financial burden placed on counties by the Commitment of Sexually Violent Predators Act, K.S.A. 59-29a01 *et seq.* (The "Act"). As you know, under the Act if someone is convicted in a county district court as a sex offender, the Kansas Attorney General has the sole discretion to determine whether to file proceedings to designate the individual a "sexually violent predator" in an attempt to have that person, after release from prison, committed until such time as the person is safe to rejoin society. Even though the Attorney General in his or her sole discretion brings the actions, the county must pay the cost of the action. These proceedings can be very expensive. Between 1998 and 2005 Riley County had 7 sexual predator cases brought in our District Court. The total expense to Riley County for those cases was \$86,889.14. One case alone, which ended in dismissal, cost Riley County \$29,498.26.

Because cases under authority of the Act are civil cases brought to protect all Kansans from these transitory predators, and since these cases are Attorney General driven from start to finish, we believe it is only appropriate that the State be the responsible party for payment of all costs in these cases. We respectfully urge that S.B.184 be passed but with it modified in such a manner that the State of Kansas directly pays the costs associated with sexual predator commitment cases

Thank you for considering Senate Bill 184.

House Judiciary
Date 3-19-07
Attachment # 3



**STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL**

PAUL MORRISON
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.KSAG.ORG

House Judiciary Committee
SB 184
Office of Attorney General Paul Morrison
March 19, 2007

Mr. Chairman and members of the committee, thank you for allowing me to testify today.

I am here to testify in regards to Senate Bill 184. SB 184 seeks to assign to a particular state agency the costs incurred in determining whether a person is a sexual predator. SB 184 originally assigned the costs of this process to the Department of Corrections. The bill was later amended in the Senate Judiciary Committee to make the Office of Attorney General responsible for the costs.

The Office of Attorney General does not take a position on the substance of the bill. It is necessary, however, to point out a possible conflict of interest that is inherent in the bill, as amended. The sexual predator determination process currently requires the Office of Attorney General in the role of the prosecutor. It would be extremely unusual and a potential conflict of interest to require the same office that is arguing a suspect is a sex predator to be required to fund that person's defense costs.

Secondly, it is vital that SB 184 be amended to include appropriations for the agency that the Legislature ultimately deems responsible for the costs. When SB 184 was given a hearing in the Senate Judiciary Committee, the committee did not have an accurate fiscal note regarding the costs associated with sex predator determination. An updated fiscal note is now available, projecting these costs to be approximately \$1.2 million.

One final concern is whether the Legislature intends to implement spending restraints on the costs associated with the sex predator determination process. It has been my experience that these costs have the potential to be excessive and that the Legislature's interest in fiscal responsibility must be conveyed through amending language.

Thank you for your consideration. I look forward to answering any questions.

House Judiciary
Date 3-19-07
Attachment # 4



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

PAUL MORRISON
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.KSAG.ORG

House Judiciary Committee
SB 166
Chief Counsel Rick Guinn
Office of Attorney General Paul Morrison
March 14, 2007

Mr. Chairman and members of the committee, thank you for allowing me to testify today.

I am here to testify on behalf of the Office of Attorney General in support of Senate Bill 166. SB 166 makes two clarifications in last session's HB 2576, also known as "Jessica's Law." While these clarifications are technical in nature, it is extremely important that they are implemented, in order to comply with the original intent of the legislation.

The first clarification involves a potential loophole for second-time offenders who would otherwise be sentenced to a term of imprisonment of not less than 40 years, also known as the "Hard 40." The current language of the law does not take into account the fact that the elements of the crime of aggravated indecent liberties with a child were significantly different prior to the implementation of the 1993 Sentencing Guidelines Act.

Prior to 1993, if you had intercourse with, or sexually touched, a child under the age of 16, you were guilty of indecent liberties with a child. Aggravated indecent liberties with a child, K.S.A. 21-3504, was defined as the act of indecent liberties committed by a guardian, proprietor or employee of a foster home or other institution to whose charge a child has been entrusted by a court or agency acting under the color of law.

As you know, current law states that the acts an offender commits and the age of the child determines whether one is guilty of aggravated indecent liberties or the "standard," indecent liberties with a child.

Therefore, the second-time offender provision of Jessica's Law does not apply to the offenders who were originally convicted of touching or having intercourse with young children prior to 1993. Instead, these offenders would be treated as first-time offenders.

The language inserted by SB 166, "a crime in effect at any time prior to the effective date of this act that is comparable to an offense defined in subsection (a)(1)," will resolve this issue and ensure that second-time offenders receive the 'Hard 40' sentence.

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The second clarification to Jessica's Law involves offenders who are convicted of the crime of sexual exploitation in K.S.A. 21-3516. As it stands, the law covers offenders guilty of sexual exploitation in subsections (a)(5) or (a)(6) who are *over* 18 years of age, but not those offenders of who are being tried as adults but are *under* 18 years of age.

SB 166 contains language that establishes that for all violations of K.S.A. 21-3516 the offense shall be a severity level 5 person felony except when the subsections violated are (a)(5) or (a)(6) and the defendant is over the age of 18 (in which case it would remain an off-grid felony offense).

Jessica's Law was a worthwhile piece of legislation that imposed tough sentences on sex offenders. SB 166 contains clarifications that are necessary to fulfill the legislative intent of Jessica's Law.

Thank you for your time and I look forward to answering any questions.

Testimony on SB 166
to
The House Judiciary Committee

By Roger Werholtz
Secretary
Kansas Department of Corrections
March 14, 2007

The Department of Corrections supports SB 166 as amended by the Senate. SB 166 was passed by the Senate unanimously. SB 166 clarifies the criminal penalty provided for the Sexual Exploitation of a Child and the definition of crimes committed against children that pursuant to the Aggravated Habitual Sex Offender Act would subjected a defendant to an enhanced sentence. The language of the 2006 amendments to K.S.A. 21-3516 and 21-4643 contained two omissions that are addressed by SB 166. The Senate amendment also provides for application of the "Romeo and Juliet" exception to the enhance sentence of life with a mandatory 40 year minimum for a second offense if the victim was at least 14 years of age but less than 16 and the offender was less than 19 years of age.

K.S.A. 21-3516 (Sexual Exploitation of a Child)

SB 166 addresses the omission in K.S.A. 21-3516 by providing a criminal penalty for persons being tried as an adult but who are under that age of 18 convicted of violating subsections (a)(5) or (a)(6). The current law clearly provides for sentencing as an off grid offense if the defendant is over the age of 18 for crimes committed in violation of those two subsections. However, due to the language used to define violations of subsections (a)(1), (a)(2), (a)(3) and (a)(4) as severity level 5 person felonies, commission of offenses in violation of those subsections by a person being tried as an adult but who is under the age of 18 does not include a sentencing provision for violations of subsections (a)(5) or (a)(6). SB 166 addresses that omission by establishing that for all violations of K.S.A. 21-3516 the offense shall be a severity level 5 person felony except when the subsections violated are (a)(5) or (a)(6) and the defendant is over the age of 18.

K.S.A. 21-4643 (Aggravated Habitual Sex Offender)

The purpose of K.S.A. 21-4643 is to provide an enhanced sentence for persons who have repeatedly committed sex offenses against children. This is accomplished by that statute specifying by reference to the statute number of the crimes committed in the past that serve as the basis for determining whether the defendant is a repeat offender for enhanced sentencing purposes. Unfortunately, the statute numbers used in the past do not necessary correspond to the criminal elements of the crimes currently defined by the same statute number.

SB 166 addresses the fact that in 1993 the elements of the crime of Aggravated Indecent Liberties (K.S.A. 21-3504) were amended. Prior to 1993, the crime of Aggravated Indecent Liberties with a child was defined by whether the defendant was a guardian or custodian of the

child placed in the defendant's care by the court or other agency acting under color of law. After 1993, Aggravated Indecent Liberties is defined by the age of the child victim. Thus, a person who had committed a sexual act with a child under the age of 14 but who was not the child's court appointed guardian would not have been convicted of Aggravated Indecent Liberties prior to 1993. SB 166 provides that when determining whether a defendant had previously committed a sex offense against a child, a previous conviction for a crime that is comparable will establish the necessary criminal history for an enhanced sentence as an aggravated habitual offender.

TESTIMONY TO THE HOUSE JUDICIARY COMMITTEE
IN SUPPORT OF SB 97 REFERENCE BURGLARY SENTENCING

On behalf of the
Kansas Association of Chiefs of Police
March 19, 2007

The Kansas Association of Chiefs of Police is supportive of any effort to strengthen the sentencing of convicted burglars. SB 97 will make a minor improvement on a major problem. In 2005 16% of all serious (Part 1) crimes reported to law enforcement in Kansas were burglary to a residence or business. This doesn't include the vehicle burglaries. In most cases burglars will commit hundreds of burglaries for every arrest or conviction. In many cases burglars are charged with multiple counts of burglary when they are arrested. If we understand the intent of this bill correctly, it would strengthen sentencing by making it more difficult for a judge to not sentence a burglar to jail upon the 3rd or subsequent conviction. We believe this to be a solid step forward in addressing the vast burglary problem Kansans are facing. But while it is a solid step, it is not a giant step. Burglars with three or more burglary convictions will have victimized many more Kansans than three. Such pressure for incarceration sentencing should be occurring sooner. Perhaps it would be helpful to consider clarifying for the courts that 2nd and 3rd conviction means convictions for 2 or 3 criminal acts of burglary and not 2 or 3 times appearing before a court for multiple burglary convictions. We have seen many times when multiple convictions for burglary are counted as just one conviction when they were dealt with at one hearing or trial.

The Wichita Police Department has presented testimony summarizing case studies representing the extent of this problem and typical sentencing history for Kansas burglars. Those case studies could be echoed by most Kansas law enforcement agencies.

Thousands of Kansans are victimized by burglaries to businesses and homes every year in Kansas—over 18,000 in 2005. That does not mean there are 18,000 burglars out there, but it does mean that 18,000 Kansans suffered the financial loss from the damage and stolen property. Not all of this loss was covered by insurance and often times these burglaries result in higher insurance premiums after claims are filed. Insurance companies also suffered a financial loss due to these crimes resulting in higher premiums for everyone. But probably the worst consequence of these crimes is the way victim's lives are frequently changed forever from the emotional trauma of this crime when a residence is involved. We either pay through prison and rehabilitation costs or we pay through the victimization. We believe most Kansans would rather reduce the victimization even if there is additional prison costs associated with that choice. Getting these criminals to prison sooner is especially important as KDOC's rehabilitation efforts and successes move forward. Sadly, those rehabilitation programs can't take place if we don't get the criminal into the prison to participate.

This issue is one of a handful of our association's priorities. The Kansas Chiefs see the problem of burglary offender sentencing as a critical matter. We urge you to recommend passage of this bill and take a step toward protecting our citizens from these criminals.



Ed Klumpp
Chief of Police-Retired
Topeka Police Department

Chair-Legislative Committee
Kansas Association of Chiefs of Police

Home: (785)235-5619
E-mail: eklumpp@cox.net

House Judiciary
Date 3-19-07
Attachment # 7



TESTIMONY



Darrell L. Haynes
Captain - Wichita Police Dept.
Lt. Barry Von Fange
Lieutenant - Wichita Police Department

City of Wichita
455 N Main, Wichita, KS. 67202
Wichita Phone: 316.268.4164
dhaynes@wichita.gov

Senate Bill No. 97

An act concerning crimes, punishment, and criminal procedure relating to burglary; sentencing amending K.S.A. 2006 Supp 21-4704 and repealing the existing section.

March 19, 2007

The City of Wichita supports House Bill 97, believing that this legislation is needed to prevent victimization, and to assist all law enforcement agencies in the state to deal with the issue of serial business burglars.

NATURE OF THE PROBLEM

We have had a history of serial burglary suspects who commit burglaries of business as their sole source of income, and to support their drug habits. These suspects cause tremendous damage to business owners as they commit burglaries on a nightly or every-other night basis. Business are required to replace the items stolen, repair their buildings, and suffer other losses which must be made whole before the business can resume operations and return to normalcy.

When a suspect is arrested for the crime of burglary, the "presumed" sentence by the Kansas Sentencing Guidelines "GRID" is probation. A suspect who has been arrested for any number of business burglaries is eligible to get probation for 24 months. We have huge problems with the revolving door of business burglars who are released from prison, and immediately resume the commission of burglaries. Some make the conscious decision to commit business burglaries knowing that they will have presumed probation.

Examples of the problem with the sentencing levels for burglary of a business are:

Suspect "SG" a methamphetamine and cocaine addict who has a twenty-year criminal history has bragged to WPD Detectives that he knows that any time that he is out of prison, and not on parole or probation, the only sentence he faces for his business burglary crimes, should he be apprehended, is probation. In the 1980's "SG" told a Detective that he had committed over 200 burglaries since he was last released from prison. He said that if he is charged and receives a sentence of probation he knows that by the time he is apprehended again the probation will likely have expired. Each time that "SG" is arrested and charged he carefully reads every police report learning exactly how he was caught and educates himself to avoid ever making the same mistake again. At his last sentencing "SG" told the charging Detective, "don't retire, I will be out!" (indicating his intention to resume committing business burglaries upon his release from prison).

Suspect "SC" a methamphetamine and cocaine addict was arrested in the year 2000 for burglary. He confessed to committing over 135 business burglaries, and was formally charged for only 30 of the incidents. Since he was not on parole or probation he was sentenced to 24 months of probation (the same as if he was caught committing only one burglary). While on probation, he was arrested for auto theft and possession of cocaine, and sent to prison on January 24, 2003. When he was released on November 9, 2004 he was no longer on probation or post release supervision. Less than two months later on Christmas Day, December 25, 2004 he committed a burglary and continued to commit burglaries until he was charged with burglary in March of 2005. He confessed to committing eight burglaries, and was suspected to have committed at least 60 burglaries in the time he was out of prison.

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Date 3-19-07

Attachment # 8

Suspect "AP" was paroled to Wichita after his release from committing burglaries in Topeka. He immediately resumed his life of crime and began to commit daytime residence burglaries in Wichita. He was arrested after officers on a special assignment to deal with the high number of residence burglaries occurring in the area, caught him inside of a house. When released from prison he did another residence burglary in Wichita. This individual has been CONVICTED of nine separate burglaries. Under the current grid he would be presumed for imprisonment only if he commits a residence burglary, but is still eligible (and presumed) for probation if arrested on a non-residence burglary, as he is no longer on parole.

Suspect "JB" is a prolific burglar. He always picked on businesses to avoid the charge of aggravated burglary. He had a very distinctive "MO" and we were able to track his burglaries, even though we had great difficulty in obtaining enough evidence to charge him. "JB" was a scourge upon the City of Wichita in the years 2005 and 2006. He was released from prison on May 4, 2005 and until his arrest on December 9, 2006, we believe he was solely responsible for 67 incidents of burglary or attempt burglary / vandalism in the City. "JB" was educated in what evidence was needed to charge a crime through his six previous convictions for the crime of burglary, and was extremely difficult to apprehend. Officers attempted surveillance of him on numerous occasions but were foiled each time by "JB's" precautions.

"JB" was finally brought to justice when a beat officer found him in an apartment parking lot at 4:00 AM, and discovered he was wanted on a municipal warrant. In the search incidental to his arrest, the officer discovered that "JB" was in possession of a speed loader containing very distinctive ammunition, exactly matching that taken from a burglary earlier in the night at Doc's Steak House, in which guns were also taken. As a result of his possession of ammunition, the United States Attorney's Office chose to charge Mr. Baker with his violation of the armed career criminal statute. "JB" fought the charges all the way through the system but was finally convicted and sentenced to a term of 235 months (19 and ½ years) in Federal Prison. Because "JB" had been discharged due to the expiration of his sentence, he would have been presumed to be eligible for probation if he had been charged with a business burglary in District Court.

Serial burglary suspects cause untold costs to the public at large, in repairs, and replacement of the stolen items. They also cause the insurance rates to go up for the citizens of Kansas to cover the costs of their acts. While it costs money to house these suspects, the cost to citizens for their continued crimes is far higher. We quite frankly believe that a second offense of a business burglary should result in imprisonment, but the current version of Senate Bill 97 which makes a third offense presumed for imprisonment is far better than the current situation, where serial business burglars are never presumed for imprisonment as long as they stick to businesses rather than dwellings.

Your support of Senate Bill 97 is appreciated.

KANSAS

KANSAS SENTENCING COMMISSION

Honorable Ernest L. Johnson, Chairman
Attorney General Paul Morrison, Vice Chairman
Helen Pedigo, Executive Director

KATHLEEN SEBELIUS, GOVERNOR

HOUSE JUDICIARY COMMITTEE Honorable Mike O'Neal, Chairman

TESTIMONY ON SENATE BILL 97 Helen Pedigo, Executive Director March 19, 2007

Mr. Chairman and Committee members, thank you for the opportunity to appear before you today. I'd like to request the following technical amendment to Section 1 of the bill. K.S.A. 2006 Supp. 21-4704(g) contains a special rule that applied to aggravated battery against a law enforcement officer prior to the 2006 Legislative session. During the 2006 session, K.S.A. 21-3415 was amended to increase the penalty from a nondrug severity level 6 person felony to a severity level 4 person felony. Therefore, the special rule pertaining to this crime at severity level 6 is no longer applicable when the crime is committed on or after July 1 2006.

On page 4, line 8, we ask that the committee strike duplicate language and add language indicating the aggravated battery against a law enforcement officer must be committed prior to July 1, 2006 in order for the special rule to apply. In the balloon, the aggravated assault language has been stricken and replaced below, to clarify that the "committed prior to July 1, 2006" applies only to aggravated battery on a law enforcement officer.

5 (g) The sentence for the violation of [~~K.S.A. 21-3411, and amend-~~
6 ~~ments thereto, aggravated assault against a law enforcement officer or]~~
7 K.S.A. 21-3415, and amendments thereto, aggravated battery against a
8 law enforcement officer [~~and amendments thereto~~]**committed prior to July 1, 2006, or K.S.A. 21-**
3411, and amendments thereto, aggravated assault against a law enforcement officer] which places
9 the de-
10 fendant's sentence in grid block 6-H or 6-I shall be presumed impris-
11 onment. The court may impose an optional nonprison sentence upon
12 making a finding on the record that the nonprison sanction will serve
13 community safety interests by promoting offender reformation. Any de-
14 cision made by the court regarding the imposition of the optional non-
15 prison sentence, if the offense is classified in grid block 6-H or 6-I, shall
not be considered departure and shall not be subject to appeal.

While the committee could choose to strike the reference to aggravated battery against a law enforcement officer from this section, we would prefer use of the time clarification language until this crime could no longer be charged at severity level 6, generally July 1, 2011. At that time, we would recommend striking the language in question.

JAYHAWK TOWER, 700 SW JACKSON STREET, SUITE 501, T

Voice 785-296-0923 Fax 785-296-0927 <http://www.ks.gov>

House Judiciary

Date 3-19-07

Attachment # 9

The committee may consider striking the phrases "either" on page 5, line 43 and "or 21-3716" on page 6, line 1, as a burglary with two prior aggravated burglaries would put the offender at a category 7-B, which is already presumptive prison and, therefore, no special rule is necessary to sentence to prison. A balloon is shown below with suggested stricken language on pages 5 and 6 between brackets ([]).

SB 97—Am. By S

5

37 (l) (1) The sentence for a violation of subsection (a) of K.S.A. 21-
38 3715 and amendments thereto when such person being sentenced has a
39 prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715
40 or 21-3716 and amendments thereto shall be presumed imprisonment.
41 (2) *The sentence for a ~~third or subsequent~~ violation of K.S.A. 21-3715*
42 *or 21-3716, and amendments thereto, when such person being sentenced*
43 *has two or more prior convictions for violations of [either] K.S.A. 21-3715*

SB 97—Am. By S

6

1 *[or 21-3716], and amendments thereto, or a prior conviction of K.S.A. 21-*
2 *3715 and 21-3716, and amendments thereto, shall be presumed impris-*
3 *onment and the defendant shall be sentenced to prison as provided by*
4 *this section. Such sentence shall not be considered a departure and shall*
5 *not be subject to appeal.*

We ask that the committee consider these amendments when working the bill. I'd be happy to stand for questions.



Kansas County & District Attorneys Association

1200 SW 10th Avenue
Topeka, KS 66604
(785) 232-5822 Fax: (785) 234-2433
www.kcdaa.org

**WRITTEN TESTIMONY IN SUPPORT
OF S.B. 97**

TO: Chairman Mike O'Neal and members of the House Judiciary Committee

FROM: Steve Kearney, Executive Director, KCDA

DATE: March 19, 2007

Chairman O'Neal and members of the House Judiciary Committee, I would like to thank you for the opportunity to present written testimony in support of S.B. 97. The Kansas County and District Attorneys Association strongly supports this legislation prescribing presumptive imprisonment for a third or subsequent conviction for burglary.

We understand there will be a bed space impact involved with the bill; however, the Kansas County and District Attorneys Association has long supported the underlying public policy of specifically reserving prison sanctions for repeat offenders. The measures in SB 97 will prevent a revolving door of this type of offender and ensure that our laws are adequately enforced.

We urge your full support and favorable recommendation of S.B. 97.

House Judiciary
Date 3-19-07
Attachment # 10



POLICE DEPARTMENT

CRIMINAL INVESTIGATION BUREAU



Samuel F. Breshears
Chief of Police

Major Tom McMillan
Executive Officer

MEMORANDUM

TO: Kansas Legislature

FROM: Major Tom McMillan, Commander
Kansas City Kansas Police Department

DATE: March 16, 2007

SUBJECT: Letter of Support for SB-97

I would like to express my full support for SB-97 which basically mandates prison time for a 3rd conviction. As the Executive Officer for the Police Department's Detectives, I hear first hand how some criminals will describe in their statements that they didn't participate in a criminal activity for fear of being caught for the third time. We had one just this week that stated he didn't go along as an active participant in a car-jacking because he had two prior convictions and didn't want to risk a third. It is a crime deterrent and a useful tool during interrogations.

The concept is fair and equitable in that it targets those who are career and/or habitual criminals who have shown the propensity and will continue to prey upon society. A logical way to keep our citizen safe is to prevent criminals from committing further crimes by imprisonment. That is what SB-97 would accomplish. By mandating a prison sentence for third-time convictions it would prohibit these habitual criminals from further victimization.

House Judiciary
Date 3-19-07
Attachment # 11



Polsinelli

Shalton | Flanigan | Suelthaus PC

Memorandum

TO: THE HONORABLE MICHAEL O'NEAL, CHAIRMAN
HOUSE JUDICIARY COMMITTEE

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

RE: SB 97

DATE: MARCH 19, 2007

Mr. Chairman and Members of the Committee, my name is Jeff Bottenberg and I appreciate the opportunity to submit written testimony in support of SB 97 on behalf of the Kansas Sheriffs' Association (the "KSA"). The KSA is comprised of law enforcement and civilian personnel that work in county law enforcement offices across the state.

The KSA has long supported stronger sentences for repeat burglars, as those persons that possess the criminal intent to commit burglary certainly also possess the intent to commit other crimes as well. Moreover, the financial impact of unwarranted home invasions and burglaries is tremendous. According to the FBI, in 2005 there were 2,154,126 burglaries nationwide, and the average loss for a residential burglary was \$1,725. In Kansas, approximately 8 percent of homeowner insurance losses for 2001 and 2002 were due to theft. Although it is easy to calculate the financial impact of burglaries, the emotional component of such invasions is incalculable, and no amount of compensation can take the place of a person's sense of security and comfort, which in many cases is irretrievably lost.

The KSA believes that requiring repeat burglars to be incarcerated in a state correctional institution is the only effective way to decrease the commitment of such crimes. Burglars may not be intellectual geniuses but they know the Kansas Sentencing Guidelines are lenient when it comes to burglary and theft. Sheriffs have reported instances where thieves have told them that they made sure that if caught, they would be charged with a felony as opposed to a misdemeanor. The rationale behind such logic is that the person could be sentenced for up to a year in a county jail for a misdemeanor conviction, while he or she would only receive probation for a felony conviction.

One AmVestors Place

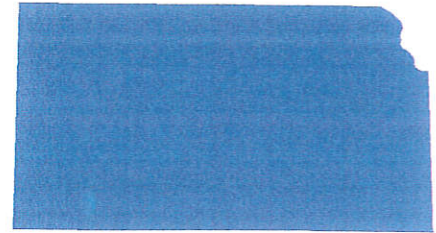
House Judiciary
Date 3-19-07
Attachment # 12

The KSA would also like to express its appreciation for legislation that requires jail time to be spent in a state correctional facility and not a county jail. With the recent enactment of legislation that requires felons to serve time in a county jail (forgery, cruelty to animals, DUI, etc), the larger county jails are beginning to resemble state prisons rather than pre-sentencing detention facilities. SB 97 reverses this trend in state incarceration practice, much to the appreciation of the 105 county law enforcement officers.

Sending repeat burglars to state correctional facilities will not only reduce the frequency of such crimes, but will give their victims a sense of security and relief. For the above reasons, the KSA strongly supports SB 97. Please do not hesitate to contact me if you have further questions.

JSB
Enclosures

Policy Options to Increase Public Safety & Manage the Growth of the Prison Population



Kansas policymakers are looking for ways to increase public safety and to manage corrections spending and growth in the prison population. Unless policymakers act, the prison population is projected to increase 26 percent over the next ten years, at a cost to taxpayers of over \$500 million in additional spending over the next ten years.

This policy brief provides options for policymakers interested in increasing public safety and averting the current growth projected for the state's prison population. These options include sustaining the recent reductions in parole revocations, strengthening the community corrections and behavioral health treatment systems to reduce probation revocations, and increasing the percent of offenders completing programs shown to reduce their risk prior to release. This document provides descriptions of the impact that each policy would have on the prison population and provides cost estimates for the purposes of comparing the options against one another. The estimates provided in this policy brief about the impact of these policies on the prison population are based upon various projections developed by the Kansas Sentencing Commission and reference legislation currently being considered by Kansas policymakers.

When considering the options described in this brief, it is important for policymakers to keep the following research-based principles in mind:

- **State and local agencies must implement programs that have been shown to reduce recidivism.** The literature is clear that programs, such as substance abuse treatment, vocational education, and basic education can reduce recidivism. There is no one program, however, that can reduce recidivism for all offenders. Programs are only effective when they are targeted towards offenders whose need for a particular program is related to their criminal behavior. The type of programs needed to reduce the multiple needs and risks of individual offenders is best determined by corrections officials using individualized and objective risk/needs assessments that are validated and research-based.
- **Effective programs cannot do it alone, and must be accompanied by smart policies.** State and local policies must be modified to ensure that services, supervision, and revocations are targeted towards the offenders that pose the highest risk to public safety. The state can achieve the greatest return on its investment by focusing on these offenders and working to appropriately reduce their risk of committing another crime. Clear goals, incentives for meeting those goals, and accountability mechanisms can all be established in policy to help state agencies, local programs, and offenders buy into this approach.

Policy Options	Policy Cost (Annual)	Bed Savings (By FY2016)
No Policy Change	—	—
Governor's Budget Proposal to Sustain 50% Reduction in Parole Revocations	\$2.4m (Gov. Budget) \$1.3m (JEHT Foundation)	223
HB2141: Strengthen Community Corrections and Reduce Revocations by 20 Percent	\$4.5m	465
HB2141 + Treatment Capacity Enhancement to Reduce Community Corrections Revocations by 30 Percent	\$4.5m + \$3.0m = \$7.5m	687
HB2142: Reduce Risk Prior to Release (60 day Program Completion Credit)		
• Current assumptions of Sentencing Commission ⁴	—	123
• If capacity and completion rates increase (Bed savings impact assumes 50% of offenders complete one program, 10% complete two programs, and program participation reduces recidivism by 10 percent.)	\$3.6m	400
Package 1	\$6.9m	688
• Governor's Budget Proposal		
• HB2141: Community Corrections (20%)		
Package 2	\$10.5m	1,088
• Governor's Budget Proposal		
• HB2141: Community Corrections (20%)		
• <u>HB2142: Program Credit (60 days)</u>		
Package 3	\$10.5m	1,477
• Governor's Budget Proposal		
• HB2141: Community Corrections (20%)		
• HB2142: Program Credit (60 days)		
• <u>Increase good time from 15% to 20% (non-retroactive)</u> (FY2017 Bed Impact: -389)		
Package 4	\$13.5m	1,699
• Governor's Budget Proposal		
• <u>HB2141 + Treatment Enhancement (30%)</u>		
• HB2142: Program Credit (60 days)		
• Increase good time from 15% to 20% (non-retroactive) (FY2017 Bed Impact: -389)		

1. The official Kansas Sentencing Commission prison population projection issued for FY2007 projected a prison population in FY2007 of 9,185 and in FY2016 of 11,231. However, due to lower numbers of parole and probation revocations in late FY2006 and in FY2007, the prison population at the end of FY2007 is now estimated to be 8,896, or 289 beds lower than the projection estimated. The FY2016 projected prison population listed here accounts for this lower "starting point" for the projection in FY2007.

2. The estimated prison construction and operating associated with likely construction scenarios provided.

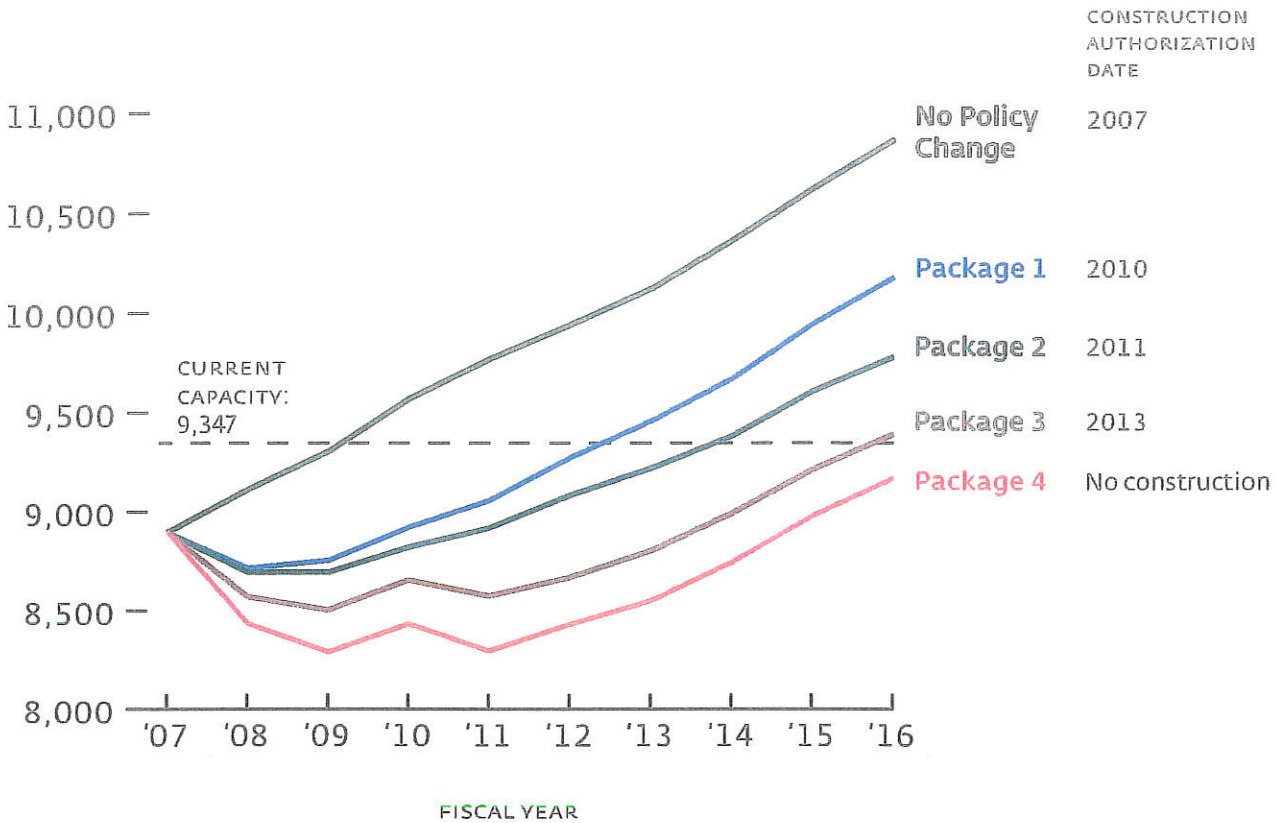
Return on Investment: Annual Cost of Averting One Prison Bed	Additional Prison Beds Needed ² (By FY2016)	Prison Construction Required by FY2016 & Annual Operating Cost ³ (One Time Construction & Annual Operating Cost)	Comparative Cost Annual Policy Cost + One Time Construction Cost + Annual Operating
—	1,522	\$186m + \$50m = \$236m	\$236m
\$11,000	1,299		
\$10,000	1,057		
\$11,000	835		
	1,399		
\$9,000	1,122		
\$10,000	834	\$46m + \$18.5m = \$64.5m	\$71m
\$9,600	434	\$26.4m + \$10m = \$36.4m	\$47m
\$7,000	45	\$22m + \$8.3m = \$30.3m	\$41m
\$8,000	—	No Construction	\$13.5m

Costs listed in this column reflect the costs by the Kansas Department of Corrections.

3. The Sentencing Commission's prison bed impact for HB2142 currently assumes that program completion rates remain at current levels (27 percent of offenders complete 1 program prior to release, and 1 percent complete two programs prior to release).



Projected Kansas Prison Population Fiscal Year 2007-2016



The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The Center provides practical, nonpartisan advice and consensus-driven strategies, informed by available evidence, to increase public safety and strengthen communities.

Research and analysis described in this report has been funded by the Bureau of Justice Assistance, a division of the U.S. Department of Justice and The Pew Charitable Trusts. Through its Public Safety Performance Project, which assists select states that want better results from their sentencing and corrections systems, Pew's project provides nonpartisan research, analysis and expertise to help states identify data-driven, fiscally responsible options for protecting public safety, holding offenders accountable, and controlling corrections costs.

Justice Center
Council of State Governments
100 Wall Street, 20th Floor
New York, NY 10005
www.justicecenter.csg.org

PROJECT CONTACT
Marshall Clement
(646) 383-5719
mclement@csg.org

13-4

HOUSE BILL No. 2142

By Committee on Judiciary

1-19

9 AN ACT concerning corrections; relating to program credits; amending
10 K.S.A. 2006 Supp. 21-4706, 21-4722 and 22-3717 and repealing the
11 existing sections.
12

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

14 Section 1. K.S.A. 2006 Supp. 21-4706 is hereby amended to read as
15 follows: 21-4706. (a) For crimes committed on or after July 1, 1993, the
16 sentences of imprisonment shall represent the time a person shall actually
17 serve, subject to a reduction of up to 15% of the primary sentence for
18 good time as authorized by law. *For crimes committed on or after January*
19 *1, 2008, the sentences of imprisonment shall represent the time a person*
20 *shall actually serve, subject to a reduction of up to 15% of the primary*
21 *sentence for good time and a reduction for program credit as authorized*
22 *by K.S.A. 21-4722, and amendments thereto.*

20%

23 (b) The sentencing court shall pronounce sentence in all felony cases.

24 (c) Violations of K.S.A. 21-3401, 21-3439 and 21-3801 and amend-
25 ments thereto and K.S.A. 2006 Supp. 21-3449 and 21-3450, and amend-
26 ments thereto, are off-grid crimes for the purpose of sentencing. Except
27 as otherwise provided by K.S.A. 21-4622 through 21-4627, and 21-4629
28 through 21-4631, and amendments thereto, the sentence shall be im-
29 prisonment for life and shall not be subject to statutory provisions for
30 suspended sentence, community service or probation.

31 (d) As identified in K.S.A. 21-3502, 21-3404, 21-3506, 21-3513 and
32 21-3516 and K.S.A. 2006 Supp. 21-3447, and amendments thereto, if the
33 offender is 18 years of age or older and the victim is under 14 years of
34 age, such violations are off-grid crimes for the purposes of sentencing.
35 Except as provided in K.S.A. 2006 Supp. 21-4642, and amendments
36 thereto, the sentence shall be imprisonment for life pursuant to K.S.A.
37 2006 Supp. 21-4643, and amendments thereto.

38 Sec. 2. K.S.A. 2006 Supp. 21-4722 is hereby amended to read as
39 follows: 21-4722. (a) For purposes of determining release of an inmate
40 ~~for a crime committed on or after July 1, 1993,~~ the following shall apply
41 with regard to good time calculations:

42 (1) A system shall be developed whereby good behavior by inmates
43 is the expected norm and negative behavior will be punished; and

House Judiciary
Date 3-19-07
Attachment # 14

14-2

1 (2) the amount of time which can be earned by an inmate and subtracted from any sentence is limited to an amount equal to 15% of the prison part of the sentence.

: (A) For a crime committed on or after July 1, 1993,

4 (b) Any time which is earned and subtracted from any presumptive sentence of any inmate pursuant to good time calculation shall be added to such inmate's time of postrelease supervision.

; or (B) for a crime committed on or after January 1, 2008, an amount equal to 20% of the prison part of the sentence

7 (c) The secretary of corrections is hereby authorized to adopt rules and regulations to carry out the provisions of this section regarding good time calculations. Such rules and regulations shall provide circumstances upon which an inmate may earn good time credits and for the forfeiture of earned credits and such circumstances may include factors substantially related to program and work participation and conduct and the inmate's willingness to examine and confront the past behavior patterns that resulted in the commission of the inmate's crimes.

the prison part of the

obligation

15 (d) An inmate shall not be awarded good time credits pursuant to this section for any review period established by the secretary of corrections in which a court finds that the inmate has done any of the following while in the custody of the secretary of corrections:

- 19 (1) Filed a false or malicious action or claim with the court;
- 20 (2) brought an action or claim with the court solely or primarily for delay or harassment;
- 22 (3) testified falsely or otherwise submitted false evidence or information to the court;
- 24 (4) attempted to create or obtain a false affidavit, testimony or evidence; or
- 26 (5) abused the discovery process in any judicial action or proceeding.

27 (e) (1) For purposes of determining release of an inmate who is serving a sentence for a nondrug severity level 4 through 10 crime or a drug severity level 3 or 4 crime committed on or after January 1, 2008, in addition to any good time credits earned and retained, the following shall apply with regard to program credit calculations:

only

32 (A) A system shall be developed whereby program credits may be earned by inmates for the successful completion of a general education diploma, a technical or vocational training program, a substance abuse treatment program or any other program designated by the secretary which has been shown to reduce offender's risk after release; and

37 (B) the amount of time which can be earned and retained by an inmate and subtracted from any sentence is limited to not more than 60 days for the successful completion of each program.

for the successful completion of programs

40 (2) Any time which is earned and subtracted from any presumptive sentence of any inmate pursuant to program credit calculation shall be added to such inmate's time of postrelease supervision, if applicable.

the prison part of the

obligation

43 (3) When separate sentences of imprisonment for different crimes are

75-5293. Grants for expense of corrections advisory boards of county or group of cooperating counties without an approved plan. In order to assist a county or group of cooperating counties which has established a corrections advisory board but which does not have a comprehensive plan which has been approved by the secretary of corrections and which requires financial aid to defray all or part of the expenses incurred by corrections advisory board members in discharging their official duties pursuant to K.S.A. 75-5299 and amendments thereto, the secretary of corrections, upon receipt of resolutions by the board or boards of county commissioners, or the administrative authority established by cooperating counties, certifying the need for and inability to pay such expenses, may pay quarterly to the county or counties an amount determined by the secretary ~~based on existing experience of other corrections advisory boards.~~

History: L. 1978, ch. 364, § 4; L. 1989, ch. 92, § 7; L. 1993, ch. 197, § 1; July 1.

House Judiciary

Date 3-19-07

Attachment # 15

75-52,111. Community corrections grants; determination of grant amounts, minimum; reductions, guidelines; grant budget requests; increased amounts. (a) On or before each July 1, the secretary of corrections shall determine annually the amount of the grant for the ensuing fiscal year for each county or group of counties which has qualified to receive grants as provided in this section.

(b) ~~(1) For each county or group of counties entitled to receive grants prior to July 1, 1990, the secretary of corrections shall determine on or before each January 1 the amount of the grant for the ensuing fiscal year based on the fiscal year 1989 per capita costs of such county or group of counties and the budget request of each county or group of counties for additional grant moneys submitted to the secretary as provided by subpart (2). The per capita costs of each county or group of counties shall be determined by dividing the amount of the fiscal year 1989 grant of such county or group of counties by the number of individuals served by the community correctional services program of such county or group of counties during fiscal year 1989. Subject to the other provisions of this subsection, the amount of the ensuing fiscal year grant for a county or group of counties shall be an amount equal to the fiscal year 1989 per capita costs, as determined pursuant to this subsection, multiplied by the number of individuals to be served by the community correctional services program of such county or group of counties during the ensuing fiscal year. Except as provided in this subsection for reduction of a grant with respect to certain community correctional services, no grant for a county or group of counties which received a grant for fiscal year 1989 shall be less than the amount of the grant funds expended by the county or group of counties during fiscal year 1989, if such~~

~~county or group of counties continues to serve, or is projected to serve, at least the same number of persons as served during fiscal year 1989 and continues to provide the same community correctional services as provided during fiscal year 1989, as provided by K.S.A. 75-5291 and amendments thereto. The secretary of corrections may reduce the grant of a county or a group of counties with respect to certain community correctional services determined by the secretary subject to limitations provided in this subsection. The determination to reduce the grant of a county or group of counties, by the secretary shall be based on the following criteria, whether: Staffing levels exceed levels justified by active cases under supervision; one-time expenditures such as renovation or construction costs, major equipment purchases or capital acquisitions were a factor in the fiscal year 1989 base; administrative costs were excessive; funded contracts for services remain unused for an unreasonable period of time; any unreasonable indirect costs were factored into or allowed in the fiscal year 1989 base; client numbers were reduced; caseload projections were supported by historical experience; excessive travel costs outside the program area were a factor in the fiscal year 1989 base; contracted services' costs factored into the fiscal year 1989 base are significantly higher than other programs of the department of correction's experienced costs; and whether shrinkage factors, vacancy savings, and turnover rates are relevant factors for consideration. Except as provided in K.S.A. 75-52,105 and amendments thereto, the secretary may reduce a grant to a county or group of counties only at the time the county or group of counties submits its annual budget request to the secretary for determination of such county or group of counties annual grant amount as provided in this section.~~

shall award grants to

for

from funds appropriated for that purpose in an amount

of amount

remaining

and the comprehensive community corrections plan submitted to the secretary meeting the provisions of K.S.A. 75-5290 and amendments thereto.

The

as provided by K.S.A. 75-52,105 and amendments thereto or due to changes in the availability of funds.

~~(2) As a part of such county's or group of counties' budget request submitted to the secretary, the county or group of counties may request a higher grant amount than determined as provided in subpart (1) for new or expanded programs as provided in K.S.A. 75-52,102 and amendments thereto and increased amounts as determined in subpart (1) for inflationary costs. The secretary shall determine such additional grant amount for such new or expanded programs based on existing experience of other programs offering similar programs.~~

~~(c) On or before July 1, 1990, each county or group of counties applying to receive a grant for the first time shall submit a budget request to the secretary. The secretary shall determine the amount of the grant for such county or group of counties based on existing experience of similar programs. For each fiscal year thereafter, the amount of the grant for such county or group of counties shall be determined as provided in subsection (b), except that the grant received by such county or group of counties pursuant to this subsection shall not be less than the amount of the grant received by such county or group of counties during the first year of operation, if such county or group of counties continues to serve at least the same number of persons as served during the first year of operation and continues to provide the same community correctional services as provided during the first year of operation, as provided by K.S.A. 75-5291 and amendments thereto. The per capita costs of such county or group of counties for the purposes of determining grants for ensuing fiscal years under this section shall be determined as provided in subsection (b), except that per capita costs shall be based on the first year of operation.~~

~~(d) All determinations of base year per capita costs pursuant to this section, shall include all actual audited costs incurred for~~

~~approved programs included without
limitation as to fixed administrative costs.~~

History: L. 1989, ch. 92, § 15; L.
1990, ch. 324, § 1; L. 1993, ch. 197, § 3;
July 1.

Proposed Amendment
Representative Yoder
March 6, 2007

SENATE BILL No. 88

By Committee on Judiciary

1-16

House Judiciary
Date 3-19-07
Attachment # 16

10 AN ACT concerning civil procedure; relating to ~~divorce, restoration~~ of
11 name, amending K.S.A. 2006 Supp. 60-1610 and 60-1621 and repeal-
12 ing the existing sections; also repealing K.S.A. 2006 Supp. 60-1621a.

alteration

upon marriage or divorce

New

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

15 Section 1. K.S.A. 2006 Supp. 60-1610 is hereby amended to read as
16 follows: 60-1610. A decree in an action under this article may include
17 orders on the following matters:

18 (a) *Minor children.* (1) *Child support and education.* The court shall
19 make provisions for the support and education of the minor children. The
20 court may modify or change any prior order, including any order issued
21 in a title IV-D case, within three years of the date of the original order
22 or a modification order, when a material change in circumstances is
23 shown, irrespective of the present domicile of the child or the parents. If
24 more than three years has passed since the date of the original order or
25 modification order, a material change in circumstance need not be shown.
26 The court may make a modification of child support retroactive to a date
27 at least one month after the date that the motion to modify was filed with
28 the court. Any increase in support ordered effective prior to the date the
29 court's judgment is filed shall not become a lien on real property pursuant
30 to K.S.A. 60-2202 and amendments thereto. Regardless of the type of
31 custodial arrangement ordered by the court, the court may order the child
32 support and education expenses to be paid by either or both parents for
33 any child less than 18 years of age, at which age the support shall ter-
34minate unless: (A) The parent or parents agree, by written agreement
35 approved by the court, to pay support beyond the time the child reaches
36 18 years of age; (B) the child reaches 18 years of age before completing
37 the child's high school education in which case the support shall not ter-
38minate automatically, unless otherwise ordered by the court, until June
39 30 of the school year during which the child became 18 years of age if
40 the child is still attending high school; or (C) the child is still a bona fide
41 high school student after June 30 of the school year during which the
42 child became 18 years of age, in which case the court, on motion, may
43 order support to continue through the school year during which the child

(a) At the time of marriage, a person may designate a new legal name, by which such person shall subsequently be known. Such name shall include a combination of the person's prior existing name and the prior existing name of such person's spouse, or derivative versions thereof.
(b) A person's name, as designated pursuant to subsection (a), shall be recorded on the marriage license issued to such person, along with such person's name at the time of the person's application for such license, which shall be described thereon as the person's former name.
(c) The change to the person's new legal name shall be effective upon the endorsement of the person's marriage license with the certificate of marriage of the person who performed the marriage ceremony pursuant to K.S.A. 23-109, and amendments thereto.
(d) A certified copy of a person's marriage license endorsed with a certificate of marriage pursuant to K.S.A. 23-109, and amendments thereto, shall constitute proof of identity for the purposes of issuance of any Kansas driver's license or nondriver's identification card.
Sec. 2

Renumber following sections accordingly.