

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Vice -Chairman Lance Kinzer at 3:30 P.M. on February 4, 2008 in Room 313-S of the Capitol.

All members were present except:

- Representative Michael O'Neal - excused
- Representative Charlie Roth - excused
- Representative Jim Ward - excused
- Representative Annie Kuether - excused

Committee staff present:

- Jerry Ann Donaldson, Kansas Legislative Research
- Athena Andaya, Kansas Legislative Research
- Jill Wolters, Office of Revisor of Statutes
- Jason Thompson, Office of Revisor of Statutes
- Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:

- Representative Annie Tietze
- Gerald Goodell, Goodell, Stratton Law Firm
- Helen Pedigo, Executive Director, Kansas Sentencing Commission
- Rise Haneberg, Chief Court Service Officer, Johnson County

Representative Colloton appeared before the committee with a bill request relating to setting guidelines as to when detainers have to be issued. She made the motion to have the request introduced as a committee bill. Representative Wolf seconded the motion. The motion carried.

Representative Colloton requested a committee bill which would sets guidelines for police when they are interrogating someone who is mentally ill. She made the motion to have the request introduced as a committee bill. Representative Wolf seconded the motion. The motion carried.

The hearing on **HB 2656 - authorizing cemetery corporations to convey real estate not platted into cemetery lots free from trust restrictions**, was opened.

Representative Annie Tietze requested the proposed bill. Mt. Hope cemetery is located in Topeka and is in her district. It has existed since 1906. There are over 160 acres which are restricted by a Trust Deed for 1,000 years. It is her opinion that this would be the only cemetery that would be affected under this bill. (Attachment #1)

Gerald Goodel, Goodell, Stratton Law Firm, explained that Mt. Hope is exempt from federal income taxes and is not defined as a private foundation. He estimated that of the 160 acres there are about 25 that would not ever be used for burial purposes. The bill would allow them to sell the extra acres and pay off some of their debt. (Attachment #2)

The hearing on **HB 2656** was closed.

The hearing on **HB 2700 - community corrections in Johnson County's adult offender program extended to July 1, 2009**, was opened.

Helen Pedigo, Executive Director, Kansas Sentencing Commission, appeared before the committee as the sponsor of the proposed bill. She commented that the pilot program has been successful to date. The Department of Corrections is now using the LSI-R (Level of Services Inventory-Revised System, Inc.) when a person is coming into prison, on post-incarceration supervision, or in community corrections (Attachment #3)

Ms. Pedigo relayed that there needs to be some type of legislation this year. If the legislature does nothing the pilot program will expire. If the legislature decides to implement it statewide, correction agencies would not be able to move forward in time if there no guidelines put in place.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 4, 2008 in Room 313-S of the Capitol.

Representative Goyle requested a comparison between other counties which are not using the LSI-R.

Rise Haneberg, Chief Court Service Officer, Johnson County, supported the proposed bill to continue the project in Johnson County. She did state that it has taken some time to train staff. However, it is the most important function in order for the program to work correctly. Staff is finally accepting the tool and learning how to work with the provider. (Attachment #4)

Written testimony in support of the proposed bill was provided by Mark Gleeson, Office of Judicial Administration. (Attachment #5)

The hearing on **HB 2700** was closed.

The committee meeting adjourned at 4:25p.m. The next meeting was scheduled for February 5, 2008.

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

STATE CAPITOL
300 S.W. TENTH STREET
TOPEKA, KANSAS 66612
(785) 296-7885
tietze@house.state.ks.us



329 SW YORKSHIRE ROAD
TOPEKA, KANSAS 66606
(785) 273-5296

ANNIE TIETZE
56TH DISTRICT

Testimony before Judiciary
February 4, 2008
HB 2656
Rep. Annie Tietze

This bill will allow not-for-profit cemetery corporations to sell land which has not been platted into burial plots and is not necessary for future cemetery purposes. It will allow them to meet maintenance and reserve requirements.

I became involved in this issue because Mt. Hope cemetery is in my district. This cemetery has existed since 1906 when Mr. and Mrs. A.B. Whiting planned and donated it as a last resting place for the dead and as a source of perpetual support of Christian education for the living. Income from this property is used for operation, beautification, and maintenance of the cemetery in addition to support of Washburn University, the Topeka YWCA, and the Topeka YMCA.

I have a personal interest in Mt. Hope because my father, step-mother, and paternal grandparents are buried there. Having been designed by landscape architect E.F.A. Reinisch, well known for the Reinisch Rose Garden in Gage Park, it is a place where family and friends can truly honor their dead. This bill is necessary to continue providing such a place.

House Judiciary
Date 2-4-08
Attachment # 1

LAW OFFICES OF

GOODELL · STRATTON
EDMONDS & PALMER

ESTABLISHED 1881 LLP

515 SOUTH KANSAS AVENUE
TOPEKA, KANSAS 66603-3999
785-233-0593
FAX: 785-233-8870

ARTHUR E. PALMER***
H. PHILIP ELWOOD
HAROLD S. YOUNGENTOB*
PATRICK M. SALSBUURY
JOHN H. STAUFFER, JR.
N. LARRY BORK**
NATHAN D. LEADSTROM***

*ALSO ADMITTED IN MISSOURI AND NEW YORK
**ALSO ADMITTED IN NEBRASKA
***ALSO ADMITTED IN MISSOURI

MIRANDA K. OWENS
RICHARD J. RAIMOND
CODY G. ROBERTSON
OF COUNSEL
GERALD L. GOODELL
WAYNE T. STRATTON
GERALD J. LETOURNEAU
JOHN A. BAUSCH
DECEASED
ROBERT E. EDMONDS (1932-2001)
ROBERT A. MCCLURE (1920-2002)

House Bill No. 2656
(by Committee on Judiciary)

An Act relating to cemetery corporations; authorizing certain cemetery corporations to convey real estate not platted into cemetery lots free from trust restrictions.

Mister Chairman and members of the Judiciary Committee:

My name is Gerald L. Goodell, I am an attorney and a member of the voluntary board of trustees of Mount Hope Cemetery Company, a non-profit cemetery corporation that request you to adopt the above bill. This bill is also supported by Washburn Endowment Association, the YWCA and the YMCA who are the sole beneficiaries of the Mount Hope Cemetery Trust created by a Trust Deed dated April 4, 1907. We have met with the Attorney General and the Secretary of State and their staff to discuss this bill and their involvement. At the request of the Attorney General staff, we have added several suggested additions to the bill to require a reasonable buffer zone between any new improvements to be constructed on the excess land and the remaining platted cemetery lots. Both the Attorney General and the Secretary of State have expressed support of this bill.

Please consider the following in support of this bill and the purpose and necessity for this bill.

1. Mount Hope is a non-profit Kansas corporation formed by Articles of Incorporation filed with the Kansas Secretary of State on August 15, 1906 for a term of 1,000 years. Mount Hope is now a Kansas cemetery corporation subject to all regulations and restrictions contained in K.S.A. 16-301 through 16-334 and K.S.A. 17-1302 through 17-1372 and all amendments thereto. Mount Hope is also exempt from federal income taxes under Section 501(c)(13) of the Internal Revenue Code and has not been classified as a private foundation. We believe, currently Mount Hope would be the only cemetery that could qualify under this bill to be allowed to sell some of its excess land now restricted to only cemetery use.

House Judiciary
Date 2-4-08
Attachment # 2

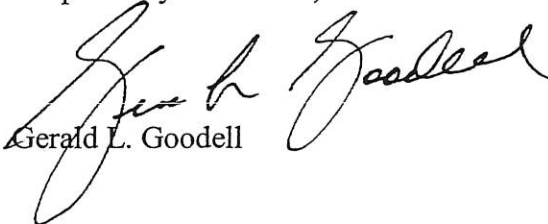
2. By a Trust Deed dated April 4, 1907, Mount Hope received title to 160 acres of unimproved real estate located between what is now Huntoon, Seventeenth and Fairlawn Streets at Topeka, Kansas. By the terms of this Trust Deed, the entire 160 acres is restricted for the sole purpose of "establishing, conducting and maintaining a cemetery or burial place ..." for the benefit of Washburn College (now Washburn Endowment Association), Young Mens Christian Association and Young Womens Christian Association (the trust beneficiaries). There is at least 25 acres of this real estate that will never be needed for cemetery or burial purposes.

3. The Board of Trustees of Mount Hope has recently determined that it is necessary and in the best interest of the general public, the trust beneficiaries and owners of lots now platted for cemetery purposes for Mount Hope to sell certain excess real estate located near the intersection of Huntoon and Fairlawn Streets for its fair market value for uses other than cemetery purposes free of the 1907 Trust Deed cemetery use restriction. Under this bill, if adopted, all proceeds will be used to meet applicable statutory maintenance and reserve obligations of Mount Hope and its obligations to the beneficiaries of this Charitable Trust.

4. Under current Kansas statutory and case law, real estate restricted to cemetery purposes cannot be sold and used for any other purpose. *Lower v. Board of Directors of Haskell County Cemetery District*, 274 Kan. 735 (56 P.3d 235) at page 742, the opinion further states "We conclude that the legislature has spoken on the subject and limits the use of a cemetery lot to burial purposes. If the law is to be changed, the legislature must change it ...". The purpose of the enclosed bill is to allow the Kansas Legislature to change this law under very restrictive and limited circumstances.

5. We have prepared the enclosed bill for the purpose of allowing the Kansas Legislature to change the current law and allow the Mount Hope to sell excess land restricted for cemetery purposes under terms approved by the Mount Hope Trustees, the trust beneficiaries, the Kansas Attorney General and the Shawnee County District Court. We believe adoption of this bill allows such sale and is in the public interest and will not defeat the purposes of the 1907 Trust Deed.

Respectfully Submitted,


Gerald L. Goodell

GLG/ag





Mount Cemetery, Topeka, Kansas

eliminating racism empowering women ywca

January 25, 2008

YWCA Topeka
225 SW 12th Street
Topeka, KS 66612
T: 785-233-1750
F: 785-233-4867
www.ywca.org

Gerald L. Goodell
Goodell, Stratton, Edmonds & Palmer
515 South Kansas Avenue
Topeka, Kansas 66603-3999

Re: 2008 H.B. 2656


Dear Mr. Goodell:

After reviewing the above-referenced bill that includes the addition of a "reasonable buffer zone" between the burial plots and proposed improvements for excess real estate that would be the subject of a sales contract, we continue to support this legislation which would authorize Mount Hope to sell certain excess cemetery property free of the trust restrictions provided certain enumerated conditions are met. Those conditions include approval of the sale by all beneficiaries, the Attorney General, and the district court.

As indicated in our previous correspondence with you, the YWCA is supportive of H.B. 2656 in its current form. However, should this bill be amended materially such that the YWCA's interests may be adversely affected, we reserve the right to withdraw our support and notify the appropriate legislators.

We appreciate your efforts in this matter. Please keep us apprized as the bill proceeds through the legislature.

Sincerely,



Joyce Martin
Interim Chief Executive Officer

cc: Charlie Lord
JuliAnn Mazachek
Charles Engel
Douglas Smith



YMCA of Topeka
We build strong kids,
strong families, strong communities

January 29, 2008

**Mr. Gerald L. Goodell
Goodell, Stratton, et. al.
515 South Kansas Avenue
Topeka, Kansas 66603-3999**

Re: 2008 H. B. 2656

Dear Mr. Goodell:

The YMCA of Topeka continues to support the bill referenced above.

This legislation authorizes Mount Hope Cemetery to sell certain excess cemetery property.

We realize there has been a change in the language, but we continue to support this bill.

Sincerely,

**Charles Lord
President/CEO
YMCA of Topeka**

Downtown Branch • 421 Van Buren • Topeka, Kansas 66603 • 785-354-8591
Kuehne Branch • 1936 N. Tyler • Topeka, Kansas 66608 • 785-233-9815 • Fax: 785-232-6224
Southwest Branch • 3635 SW Chelsea Ave • Topeka, Kansas 66614 • 785-271-7979 • Fax: 785-271-7982
Camp Hammond • 6320 SE Stubbs Rd. • Tecumseh, Kansas 66402 • 785-379-5385

YMCA mission: To put Christian principles into practice through programs that build healthy spirit, mind and body for all.





January 28, 2008

Gerald L. Goodell
Goodell, Stratton, Edmonds & Palmer
515 South Kansas Avenue
Topeka, Kansas 66603-3999

Re: 2008 H.B. 2656

Dear Jerry:

Washburn Endowment Association supports 2008 H.B. 2656 as introduced by the House Judiciary Committee. Obviously, should amendments make the bill unacceptable the Association may withdraw its support.

Please keep me and Chuck Engel apprised of the bill's progress and whether the Association could assist you in your efforts.

Very truly yours,

A handwritten signature in cursive script that reads "Juli Mazachek".

Juli Mazachek, PhD.
President

KANSAS

KANSAS SENTENCING COMMISSION

Honorable Ernest L. Johnson, Chairman
Helen Pedigo, Executive Director

KATHLEEN SEBELIUS, GOVERNOR

HOUSE JUDICIARY COMMITTEE Honorable Mike O'Neal, Chairman

TESTIMONY ON HOUSE BILL 2700 Extension of LSI-R© Johnson County Pilot Program Helen Pedigo, Executive Director Monday, February 4, 2008

Mr. Chairman and Committee members, thank you for the opportunity to appear before you today in support of House Bill 2700. The bill provides for a one-year extension of the sentencing pilot program in Johnson County.

Presently, offenders on probation are assigned to either court services or community corrections based upon conviction severity level and offender criminal history, except in Johnson County, which undertook this pilot project. The Kansas Sentencing Commission formed a work group in the Fall of 2002 to address the possibility of implementing a dynamic risk/needs assessment instrument across agencies in one targeted area in Kansas. In November 2002, members of the work group met with representatives of Johnson County Community Corrections, probation and parole.

Agreement was reached to pilot the LSI-R (Level of Services Inventory-Revised©, developed by Don Andrews, Ph.D. & James Bonta, Ph.D. and marketed through Multi-Health Systems, Inc, who hold the copyright). The LSI-R inventory is a quantitative survey of attributes of offenders and their situations relevant to level of supervision and treatment decisions. Designed for ages 16 and older, the LSI-R inventory helps predict parole outcome, success in correctional halfway houses, institutional misconduct, and recidivism. The 54 items in 10 domains are based on legal requirements and include relevant factors needed for making decisions about risk and treatment. The Johnson County agencies agreed to pursue this project together.

Five years have passed since program inception. By July of 2003, all felony cases were being assessed with the LSI-R tool prior to sentencing. Dr. Alex Holsinger, of the University of Missouri-Kansas City, has consulted with the Johnson County pilot project to provide technical assistance and initial data analysis.

Use of this instrument allows for more individualized case management of the offender based on the pattern of risks and needs that the offender presents. Further, use of the LSI-R on offender population through the continuum of contact with various levels of supervision and

700 SW Jackson Street, Suite 501, Topeka, KS 66603-3714

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

House Judiciary

Date 2-4-08

Attachment # 3

custody (i.e., court services, community corrections, incarceration, and post-incarceration supervision or parole), would allow the officer to tailor supervision and services to the specific offender and, ultimately, reduce the risk of re-offense, as well as the probability of incarceration or reincarceration, thereby improving community safety.

Local policy based on a data study by Dr. Holsinger set cut-offs for offenders with scores of 0-16 remaining with Court Services, offenders with scores of 17-32 assigned to Intensive Supervised Probation, and offenders with scores of 33 and above considered for the Residential Center, Labette, or the Therapeutic Community.

The Johnson County pilot project has been successful to date. Attached findings cover a five-year span (2003 through 2007) that includes cases from both Court Services and Community Corrections. A total of 5,415 cases (4,221 from Community Corrections; 1,194 from Court Services) are involved in the analyses. Analysis centered upon whether a case was "successful" or "unsuccessful". "Successful" cases were those that were listed as "closed", "extended", or "open". Cases were considered "unsuccessful" if they were listed as "transferred to community corrections" (from Court Services), "fugitive", "pending revocation", "reinstated", "revoked", or having had a "warrant issued".

Paralleling the efforts of Johnson County, the Department of Corrections began using the LSI-R for offenders on post-incarceration supervision, upon entrance through the Reception and Diagnostic Unit and recently implemented the tool in community corrections. However, there are a number of issues that must be resolved prior to statewide implementation.

In October 2007, the Sentencing Commission reconvened the work group to review and make recommendations to the Commission regarding statewide implementation of the LSI-R, recommended solutions for issues related to statewide implementation and post-implementation of the LSI-R. The committee will begin meeting later this month. During the 2009 session, the Commission plans to bring a proposal to the Legislature regarding a specific plan relating to statewide implementation.

We ask this committee to consider this bill and recommend it favorably. I would be happy to answer your questions.

Assessing the Predictive Validity of the Level of Service Inventory- Revised

Presented to the Kansas Sentencing Commission
January 25, 2008

Alex M. Holsinger
Assoc. Professor of Criminal Justice & Criminology
University of Missouri – Kansas City

1

Current objectives

- Further explore the predictive validity of the LSI-R (is it working the way we anticipated)?
- Examine failure rates over time (post-implementation of LSI-R)
- Recommendations for future research, and objectives

2

Brief overview: LSI-R

- LSI-R is considered a '3rd generation' assessment tool
 - 1980s development period
 - 1990s initially released in its current form
- Represents important departure from previous methods
 - 1st generation – clinical/gut feeling
 - 2nd generation – over-reliance on 'static' predictors
- Good way for correctional professionals to learn about offenders when they begin supervision
 - Saves time by increasing likelihood right decision will be made initially

3

About the instrument itself

- 10 domains are measured (not all equally weighted)
- A total of 54 items are collected and scored
- The instrument does contain important 'static' (unchanging) items
 - Prior record of violence?
 - Dropped out of school?
 - Ever fired from a job?
- But most of the items are 'dynamic' – changeable, provided the right intervention is used.

4

3-4²

Here are the 10 domains that are covered

- Criminal history
- Education/employ
- Financial
- Familial relationships
- Accommodations
- Leisure/recreation
- Friendship network
- Substance use
- Emotional/mental health
- Attitudes/orientations

Each item on the instrument is linked statistically to the likelihood of recidivism.

5

Why is it important to use a tool w/dynamic predictors?

- Enhances predictive validity
 - Assists good decision making
- Greatly increases the depth of case planning for intervention
- Allows for the measurement of change over time
 - How do we know an offender is 'getting it'?

6

How is the LSI-R conducted?

- Staff become trained
 - This occurred in Johnson County in 2003 (pilot project)
- Once trained, use involves:
 - Structured interview w/offender
 - File review
 - Collateral information (family, other professionals)
- Once information gathered, scoring is done
 - Risk classification is made
 - Case plan is developed/programming recommendations
 - Over time, change (hopefully reduction in risk to community) can be observed if re-assessment is conducted

7

Can the LSI-R accurately
predict outcome?

Can the LSI-R differentiate
between risk levels?

8

LSI-R has worked in many different settings

- The predictive validity of the LSI-R has been demonstrated
 - Varying geographical locations
 - Different sub-groups of the offender population
- It is nonetheless recommended that whenever/wherever the LSI-R is newly implemented that re-validation occur specific to that new locale/jurisdiction

9

First study: Johnson County, 2005

- Data provided by Johnson County revealed:
 - Statistically significant relationship between total LSI score and the likelihood of case revocation
 - Offered recommendations for cut-off scores as well – determine what's "high" vs. "low" risk, for example

10

Current study builds upon prior research

- 5,415 cases
- Data from longer time period (2003 to 2007)
- Utilizes case outcome ('Successful' vs. 'Unsuccessful' termination) as the outcome variable
- Data come from both Court Services and Community Corrections in Johnson County

11

The relationship between LSI-R score and 'failure'

- Statistically significant correlation of .292
 - This is comparable to what other published literature has found
 - Indicates that as one's LSI-R score increases, so does the likelihood of unsuccessful discharge from supervision
- While the previous report (2005) also revealed acceptable and statistically significant results, the correlation was not as strong.
- Why? Experience with the tool, and more data

12

From original research, several risk categories were suggested

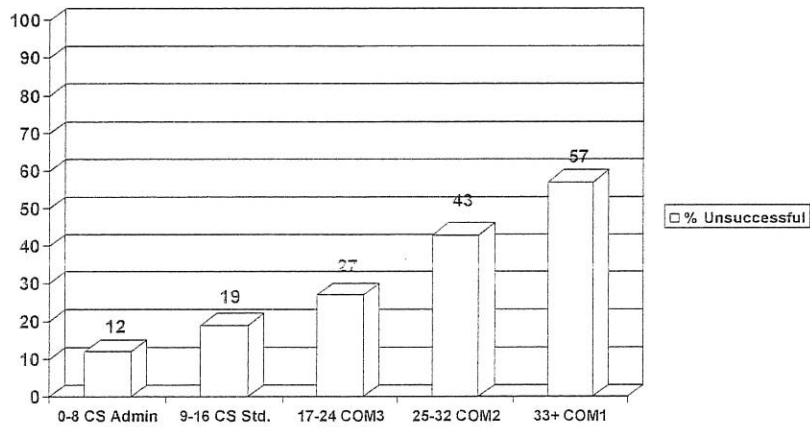
- Score of 0 to 8 = Court Services administrative supervision
- Score of 9 to 16 = Court Services standard supervision
- Score of 17 to 24 = Community Corrections ISP III
- Score of 25 to 32 = Community Corrections ISP II
- Score of 33+ = Community Corrections ISP I
 - (Residential treatment, Therapeutic Community, Boot Camp)

13

Are the recommended risk
classifications holding up?

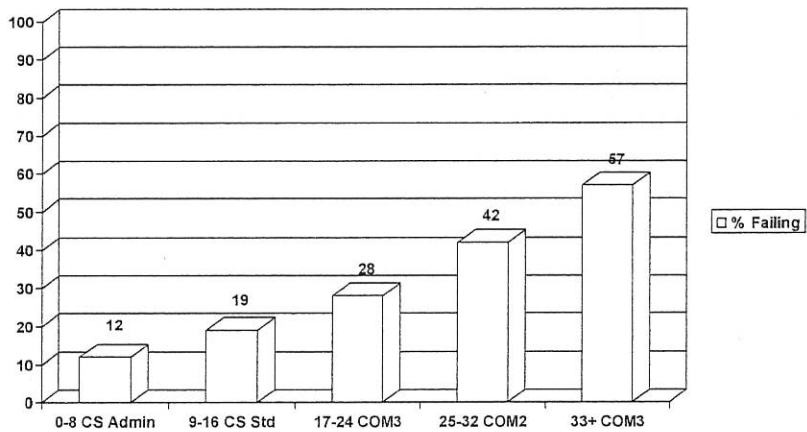
14

Percent failing by LSI-R Categorization



15

Predicted* percentage of failure by LSI-R category



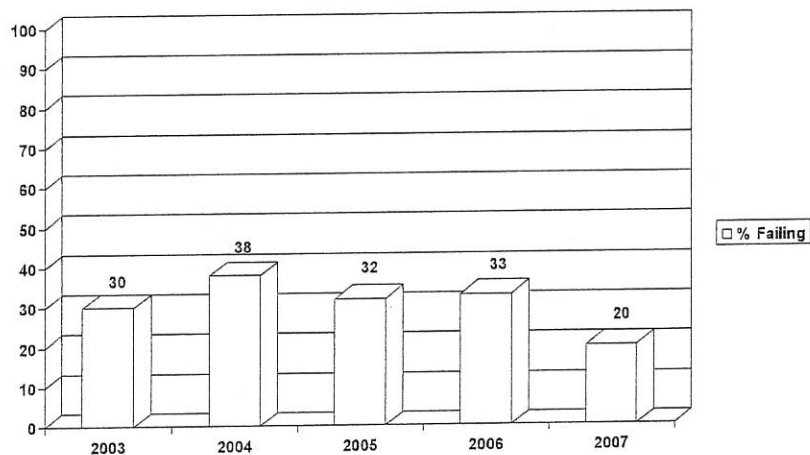
Logistic regression model was conducted in order to determine the predictive value of the LSI-R score when controlling for age, race, and sex.

16

Has LSI-R had an effect on revocation, since implementation?

17

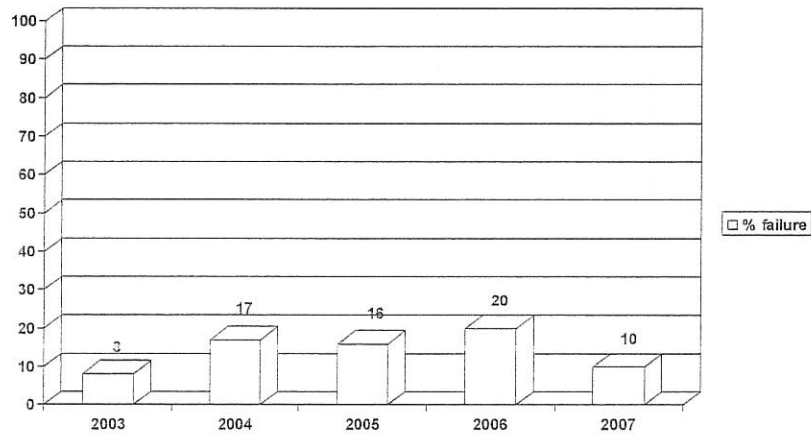
Rates of failure by year: Total sample



Note: Comparatively, very few cases (236) were involved in the analyses from 2003. As such, the rate of failure might not be representative. In addition, many of the cases from 2007 may not have been under supervision for a comparable amount of time.

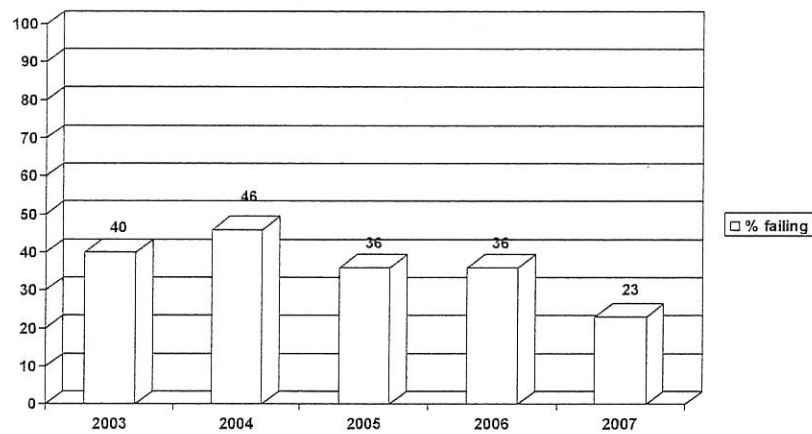
18

Rates of failure by year: Court Services



Note: Comparatively, very few cases (71) were involved in the analyses from 2003. As such, the rate of failure might not be representative. In addition, many of the cases from 2007 may not have been under supervision for a comparable amount of time.

Rate of failure by year: Community Corrections



Note: Comparatively, very few cases (165) were involved in the analyses from 2003. As such, the rate of failure might not be representative. In addition, many of the cases from 2007 may not have been under supervision for a comparable amount of time.

Conclusions/Next steps

- The predictive validity of the LSI-R was demonstrated
 - The composite score is statistically linked to odds of outcome
 - Differentiates between several risk levels
 - The risk principle can be implemented
- Not as clear re: effect on case revocation
 - Comparing to years prior (before automation) would shed some light but would require some manual archival
- Recommend continued use of LSI-R
- Additional research
 - Sub-groups
 - Harder outcome (recidivism)



JOHNSON COUNTY COURT SERVICES
STATE OF KANSAS • TENTH JUDICIAL DISTRICT

18505 W. 119th Street • Olathe, Kansas 66061-9591 • (913) 715.7427 (913) 715.7420 fax
Risë Haneberg, Chief Court Services Officer
rise.haneberg@jocogov.org

Testimony in support of HB 2700

I am Risë Haneberg, Chief Court Service Officer for the 10th Judicial District. Today I am representing the LSIR Pilot Project that has been in effect since 2003 in Johnson County. Court Services, Community Corrections and the judges of the 10th Judicial District have all worked together to implement the LSIR project in our county. After conferring with all the participants, I can report that we are in agreement with HB 2700 and the extension of the LSIR Pilot Project.

The Sentencing Commission has recently been briefed on the current status of the Johnson County LSIR Pilot Project and Helen Pedigo has shared some of that information with you today. The statistics do demonstrate that the use of the LSIR Risk-Needs Assessment tool has successfully predicted the offenders with the highest risk rate and has greatly assisted us in Johnson County in more effectively placing offenders with the higher risk at higher levels of supervision.

Speaking on behalf of Court Services, I would share our experience with the tool. First, the training of staff to correctly use the tool is perhaps one of the most crucial steps in the implementation process. Training is very time consuming and requires a rigorous certification process that has to be updated regularly. Staff acceptance is also a hurdle that takes time within an agency. The tool takes longer than our previous assessment process, as we designate two hour time blocks for the interview and the entry of the data following the interview. In Johnson County this interviewing process is shared with Community Corrections staff and 36-two hour time slots are set aside each month.

Benefits of using the tool have been many for Court Services. Our felony caseloads decreased from 544 in June of 2002 to 387 in December of 2007. This has greatly assisted us in the management of our offenders as caseloads prior to use of the LSIR were an average of 160 and now our caseloads average 135 offenders. Although this caseload number is still high, the majority of offenders on supervision with Court Services is misdemeanors and not effected by this project. Other factors can account for the reduction in felony caseload, but clearly the ability to place felony offenders directly on ISP with Community Corrections is one of the main factors. In addition, our judges adopted a new probation order that has only required conditions on the form. All other conditions of probation are set by the Court Services Officer. These conditions are formulated by addressing the three top risk areas as indicated on the offender's LSIR results. Thus, probation conditions are much more tailored to fit the needs of the offender and we are not enforcing orders of probation that involve numerous conditions under a "once size fits all approach." Our revocation rates appear to have decreased. As compared to 2002, the last

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complete year when we did not do LSIR, 194 cases were revoked and reinstated to local programming, while 31 cases went to DOC. In 2007, 91 cases were revoked and reinstated locally while 19 went to DOC. I would additionally report that in the 10th, we are also using the LSIR on our misdemeanor caseload as it has assisted us in the over-all management of our caseload.

HB 2700 will allow for the continuation of the Pilot Project, as well as give the time that is needed to properly train staff and form policy for the effective implementation of the LSIR statewide.



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

House Judiciary Committee

Testimony in Support of HB 2700
February 4, 2008

Mark Gleeson
Office of Judicial Administration

House Bill 2700 changes the date by which court services officers are to begin administering a statewide, mandatory, standardized risk assessment instrument to determine the level of risks and needs of selected adult offenders. The Kansas Sentencing Commission has selected the Level of Service Inventory – Revised (LSI-R) to be this instrument. House Bill 2700 enables the Kansas Sentencing Commission to establish policies and procedures critical to the effective use of the LSI-R. Although we will have enough court services officers trained by July 1, 2008, to meet the current requirements, moving the deadline to July 1, 2009, will allow us sufficient time to complete LSI-R training for all court services officers responsible for the supervision of adult offenders. For these reasons we support the changes proposed in HB 2700.

We are not requesting the opportunity to testify but will be available to respond to questions during any hearing on this bill.

House Judiciary
Date 2-4-08
Attachment # 5