

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 11, 2008 in Room 313-S of the Capitol.

All members were present except:

- Representative Joe Patton - Excused
- Representative Jim Ward - Excused
- Representative Kevin Yoder - 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:

- Kathy Olsen, Kansas Bankers Association
- Patricia Biggs, Kansas Parole Board
- Helen Pedigo, Kansas Sentencing Commission

The hearing on **SB 467 - manufactured housing, filing of security notice**, was opened.

Kathy Olsen, appeared before the committee in support of the bill which would increase the amount of time from 10 days to 30 days after the sale or delivery of manufactured home for a owner to file a notice of security interest with the Department of Revenue. (Attachment #1)

Written testimony, in support of the bill, was provided by the Kansas Manufactured Housing Association. (Attachment #2)

The hearing on **SB 467** was closed.

The hearing **SB 411 - factors affecting inmate's suitability for parole**, was opened.

Patricia Biggs, Kansas Parole Board, explained that the bill would add two factors to list of seven the Parole Board can consider when determining if an offender is suitable for parole. These factors are:

1. Risk factors revealed by any risk assessment of the inmate.
2. Any recommendation by staff of the facility where the inmate is incarcerated.

She stated that while these two factors are not currently required by statute, they already consider them.

She commented that the interim committee recommended an additional factor, that being proportionality. Proportionality of the time the inmate has served as compared to the sentence a person would receive under the guidelines for the same conduct that resulted in the inmate's incarceration. The Senate struck that provision because of the concern of possible lawsuits. (Attachment #3)

Chairman O'Neal stated that it was the intent of the interim committee recommendations to allow the parole board the flexibility to determine who grants parole. The legislature wants to put inmates in the position where they have hope once they get out of prison.

The hearing on **SB 411** was closed.

The hearing on **SB 418 - Kansas sentencing commission; duty to annually produce official juvenile correctional facility population projections**, was opened.

Helen Pedigo, Kansas Sentencing Commission, appeared before the committee as a proponent of the bill. She explained that the bill would require them to annually provide projections for the juvenile correctional facility population, as currently is being done with the adult population. Currently, they do this through a contractual agreement with the Juvenile Justice Authority (JJA). An additional \$50,000 would be needed to implement

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on March 11, 2008 in Room 313-S of the Capitol.

the bill. This is the same amount that JJA is currently paying Kansas Sentencing Commission. (Attachment #4)

The hearing on **SB 418** was closed.

The hearing on **SB 419 - criminal procedure; form and consent journal entry**, was opened.

Helen Pedigo, Kansas Sentencing Commission, stated that the bill is basically technical amendments to the journal entry system. It strikes the requirement to identify the name and residence of the judge presiding at a preliminary hearing, trial, and any witness sworn to testify at trial. It also strikes that if a sentence is increased because the defendant has previously been convicted of one or more felonies, the journal entry would no longer be required to include a statement of prior convictions. (Attachment #5)

The committee meeting adjourned at 5:00 p.m. The next meeting was scheduled for March 12, 2008.



March 11, 2008

To: House Committee on Judiciary

From: Kathleen Taylor Olsen, Kansas Bankers Association

Re: SB 467: Filing of Notice of Security Interest on Manufactured Homes

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today to appear in favor of SB 467 which would amend K.S.A. 58-4204(g), dealing with the timing of filing a notice of security interest (NOSI) on manufactured homes.

Currently, the law allows a lender 10 days after the sale or delivery of a manufactured home to the owner, to file its notice of security interest with the Department of Revenue, Division of Vehicles. Several years ago, the Bankruptcy Code was amended to expand the period for lien perfection to relate back to the attachment of the security interest from 20 to 30 days. At that time, the Kansas legislature changed the statute dealing with the filing of an NOSI for vehicles to 30 days (K.S.A. 8-135(c)(5)), but we inadvertently neglected to request a similar change to the manufactured home statute.

This bill would simply change the Kansas statute on manufactured homes (which are titled property) to conform to the US Bankruptcy Code and the Kansas law with regard to vehicles.

Thank you and on behalf of the Kansas Bankers Association, I respectfully request your favorable consideration of this bill.



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Testimony House Judiciary Committee

TO: Representative Mike O'Neal, Chairman
And Members of the Committee

FROM: Martha Neu Smith
Executive Director

RE: SB 467 – Notice of Security Interest on Manufactured Homes

DATE: March 11, 2008

Chairman O'Neal and members of the Committee, thank you for the opportunity to comment in support of SB 467.

Kansas Manufactured Housing Association is a statewide trade association, which represents all facets of the manufactured housing industry including manufacturers, retail centers, community owners and operators, finance and insurance companies, service and supplier companies and transporters.

Simply put, KMHA members like the change proposed in SB 467, which modifies the filing time requirement for security interest on a manufactured home from 10 days to 30 days.

Again, thank you for the opportunity to comment in support of SB 467.

House Judiciary
Date 3-11-08
Attachment # 2

Paul Feleciano, Chairperson
Robert Sanders, Member
Patricia Biggs, Member

MEMORANDUM

TO: HOUSE JUDICIARY COMMITTEE, REPRESENTATIVE VE O'NEAL, CHAIRMAN
FROM: KANSAS PAROLE BOARD
DATE: MARCH 11, 2008
RE: 2008-SB 411 -- AS AMENDED BY SENATE COMMITTEE

INTRODUCTION

2008-SB 411 relates to factors considered by the Kansas Parole Board when making determinations regarding parole suitability (amending K.S.A. 22-3717). The Kansas Parole Board's position is supportive in regard to this proposed policy change.

ANALYSIS AND CONSIDERATION

Presently, the Board considers seven factors when determining parole suitability for an offender. Amended SB 411 expands the criteria by adding the following new factors:

1. **risk factors revealed by any risk assessment of the inmate;**
2. **any recommendation by the staff of the facility where the inmate is incarcerated.**

Although not already included in statute, the Board presently considers risk factors identified by risk assessment instruments as well as the recommendations of Department of Corrections' staff.

RISK ASSESSMENTS

Current risk assessments used by the KPB include:

- **LSI-R©: The "Level of Service Inventory – Revised ©"** is a proprietary risk assessment instrument constructed by Canadian criminal justice researchers Don Andrews, Ph.D. and James Bonta, Ph.D and marketed by Multi-Health Systems, Inc. The LSI-R © assessment is applicable to subjects aged 16 years or more and is administered in structured interview format with supplemental file-research validation. The administration time for the interview is estimated to be 30-45 minutes (MHS, Inc. [www.mhs.com/ecom/\(42kqghjwddyqvd455biei255\)/product.aspx?RptGrpID=LSI](http://www.mhs.com/ecom/(42kqghjwddyqvd455biei255)/product.aspx?RptGrpID=LSI)). By way of this instrument, risk is measured across a variety of risk domains, the majority of which are dynamic. Risk domains measured by this instrument include Criminal History (static), Education/Employment, Financial, Family/Marital, Accommodation, Leisure/Recreation, Companions, Alcohol/Drug Problem, Emotional/Personal, and Attitudes/Orientation.

The KPB uses these assessments currently and routinely in setting special conditions for risk reduction in community supervision settings for all offenders releasing from the prison setting (i.e., those sentenced under determinate or indeterminate sentence construction).

Although proponents of the LSI-R © claim that the instrument holds its risk measurement validity regardless of the jurisdiction the offender (e.g., Andrews, 1982; Bonta, 1989; Lowenkamp, Holsinger and Latessa, 2001) the practical application of this measure, within internal policy-driven guidelines, makes it unlikely that there can be a single, universal risk assessment instrument (Wright et al, 1984).

In particular, the LSI-R ©, as applied within the KDOC system, is generally "limited" in its consideration of dynamic risk for offenders who have experienced an incarceration of two years or more.

Thus, additional risk measures are frequently consulted when considering parole suitability for offenders sentenced under the indeterminate structure.

- **VRAG (the "Violent Risk Appraisal Guide")** for offenders convicted of the more serious, violent crimes or for offenders who demonstrate violent or predatory behavior within the prison regardless of the crime of conviction). The VRAG assessment returns a result that is an actuarial prediction of violent recidivism over specific time periods.

- **Sex Offender/Sex Offense specific risk assessments:**

- *Static 99/Static 2002*
- *SORAG "Sex Offender Risk Appraisal Guide"*
- *RRAZOR "Rapid Risk Assessment for Sex Offense Recidivism"*
- *MnSOST-R "Minnesota Sex Offender Screening Tool-Revised"*.

Each of these instruments has been found to predict sex-offense-based recidivism outcomes for adult male sex offenders. For "serious," violent recidivism, however, Static 2002 and SORAG have been found to be superior in predictive ability to MnSOST-R.

- **PCL-R – a measure of Psychopathy**

As developed by Robert Hare, the PCL-R measure of psychopathy is a clinical assessment, conducted by a psychologist or other professional, and spans 20 items through a semi-structured interview. The PCL-R assesses elements related to lifestyle and criminal behavior and loads the elements on two primary factors: Factor 1, "Aggressive narcissism" and Factor 2, "Socially deviant lifestyle."

Factor 1, aggressive narcissism, is correlated with narcissistic personality disorders and histrionic personality disorders. Factor 1 is often referred to as the "core personality traits of a psychopath".

Factor 2, socially deviant lifestyle, is a measure of a chronically unstable, antisocial and socially deviant lifestyle and this factor is strongly correlated to antisocial personality disorder.

Research indicates strongly that for a psychopath there exists a "hopelessness for recovery or rehabilitation" (see PCL-R manual, Hare). Furthermore, based on elements of presentation found predominately in factor 1 (e.g., selfishness, callousness, remorseless use of others, pathological lying, conning/manipulation of others), psychopaths are "contaminators" within rehabilitative group settings and cannot be mainstreamed with other offenders to work on content areas to reduce their risk to reoffend.

The multidisciplinary perspective within the criminal justice field which has resulted in a blending of actuarial sciences, economic forecasting methods, psychology and social psychology has improved the ability by which the Parole Board can make parole suitability determinations for specific offenders at specific points in time such that the likelihood of revictimization within our communities is minimized. This cross-disciplinary focus is, however, continually developing and improving. The KPBB supports inclusion of risk measurement in assessing an individual for parole suitability. Furthermore, the KPBB maintains an active role both with the Department of Corrections, the Kansas criminal justice community, and national and international organizations to further our efforts of integrating the best science into our practice of social science in this area.

STAFF RECOMMENDATIONS

It is traditional for the KPBB to hear from staff, in the absence of the offender, following the interview with the offender in making a parole suitability determination. Again, although the Board is not required by statute to consider the information shared by facility staff in making a parole suitability determination, it is our practice to include information from as many sources as possible prior to rendering a decision.

CONCLUSION

2008-SB 411 expands from 7 to 9 the factors the Kansas Parole Board must consider when making determinations regarding an offender's parole suitability (amending K.S.A. 22-3717). The two new factors proposed are risk factors ascertained by any risk assessment and KDOC facility staff input. The Kansas Parole Board supports this policy change.



KANSAS

KANSAS SENTENCING COMMISSION

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

KATHLEEN SEBELIUS, GOVERNOR

HOUSE JUDICIARY COMMITTEE Representative Michael O'Neal, Chairman

TESTIMONY ON SENATE BILL 418 ADDING JUVENILE CORRECTIONAL FACILITY PROJECTIONS TO SENTENCING COMMISSION DUTIES Helen Pedigo, Executive Director Tuesday, March 11, 2008

Mr. Chairman and Committee members, thank you for the opportunity to appear before you today in support of Senate Bill 418, which adds juvenile correctional facility population projections to the duties of the Kansas Sentencing Commission.

This bill increases the duties of the Kansas Sentencing Commission to include producing juvenile correctional facility population projections annually. From 2003 to present, the Sentencing Commission provided these projections through a contractual agreement with the Juvenile Justice Authority. Last fall, JJA officials brought to our attention a plan to discontinue this arrangement or to modify the contract to one in which the Sentencing Commission would assist JJA to produce their own projections at reduced rate for some period of time, and eventually to discontinue the relationship, as JJA would take over this responsibility. It is our understanding that JJA had identified another use for the money that funded the agreement between the agencies.

The Sentencing Commission feels strongly that facility projections should be objective, and that such objectivity is difficult to maintain when the duty is housed within the agency responsible for requesting funding for facility expansion. It is the position of the Commission that these projections should continue and that they should be carried out by the Sentencing Commission, as they have been for the last 4 years. Therefore, I ask that this duty be statutorily included with those of the Sentencing Commission.

The Senate added language regarding production of bed impact statements, similar to those submitted for adult criminal sentencing bills. A date is also specified, November 1, by which the projection would be completed. We testified in support of this language.

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

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House Judiciary

Date 3-11-08

Attachment # 4



KANSAS

KANSAS SENTENCING COMMISSION

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

KATHLEEN SEBELIUS, GOVERNOR

HOUSE JUDICIARY COMMITTEE Representative Michael O'Neal, Chairman

TESTIMONY ON SENATE BILL 419 CRIMINAL SENTENCING JOURNAL ENTRY REQUIREMENTS Helen Pedigo, Executive Director Tuesday, March 11, 2008

Mr. Chairman and Committee members, thank you for the opportunity to appear before you today in support of Senate Bill 419, which amends the statutory requirements of the journal entry of criminal sentencing. This is a technical clean-up bill.

During the past year, the Sentencing Commission implemented a subcommittee to review the journal entry of sentencing. The subcommittee, chaired by the Honorable Larry Solomon, of the 30th Judicial District in Kingman, Kansas, included prosecutors, judges, defense counsel, and Representative Jan Pauls, who provided input into a new sentencing journal entry format. In addition, the subcommittee reviewed the journal entry statute and recommended this bill. The Sentencing Commission supports this bill, as well.

This bill requires the sentencing court to note in its journal entry of judgment a statement that the defendant has stated on the record or in writing that the defendant did not want representation of counsel and to record the case transaction number for felony convictions and probation revocations involving crimes committed on or after July 1, 1993. This bill also requires that an order of commitment to the custody of the secretary of corrections shall record, in a judgment form, if used, all the information required under K.S.A. 21-4620 and amendments thereto. The bill strikes the requirement to identify the name and residence of those presiding at preliminary trial and trial stages and witnesses sworn at trial, as that information would be part of the conviction journal entry and would already be journalized by the time sentencing takes place.

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

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House Judiciary

Date 3-11-08

Attachment # 5