

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairperson Colloton at 1:30 p.m. on March 19, 2009, in Room 535-N of the Capitol.

All members were present except:

Representative Bob Brookens-excused

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes

Jason Thompson, Office of the Revisor of Statutes

Athena Andaya, Kansas Legislative Research Department

Jerry Donaldson, Kansas Legislative Research Department

Jackie Lunn, Committee Assistant

Conferees appearing before the Committee:

Others attending:

See attached list.

Chairperson Colloton welcomed the Satin Sandles Red Hat ladies from Tonganoxie to the meeting and recognized Representative McCray-Miller and she introduced Ms. Dawn Bailey, Vice-President and Assistant to the President, of Southwest College. Chairperson Colloton welcomed her as well.

Chairperson Colloton referred the Committee's attention to an article in the *USA Today* regarding the Kansas Department of Corrections. (Attachment 1) She review the article for the Committee.

Chairperson Colloton moved the Committee's attention to the committee minutes for February 5th, 9th, 10th and 11th.

Representative Bethel moved to approve the minutes for Feb 5th, 9th, 10th, and 11th. Representative Dillmore seconded. Motion carried.

HB 2340 - Sub. For H 2340 by Committee on Corrections and Juvenile Justice - Legislative review of parole board factors and rationale for granting or denying parole.

Chairperson Colloton called on Jason Thompson, Office of the Revisor of Statutes, to explain the Substitute for **HB 2340**. (Attachment 2) During his explanation it was noted the dates were not correct and should be 2009 instead of 2010.

A discussion followed and it was decided the last part of the paragraph on the last page of the bill should be moved to the beginning because all records and reports in the information received in the report from the Parole Board should be confidential.

Representative Dillmore moved to approve the substitute for HB 2340. Representative Bethel seconded.

A discussion followed.

Representative Dillmore moved to change the year 2010 to 2009 on the first line of paragraph (w) Representative Bethel seconded. Motion carried.

Representative Dillmore made a motion to direct the Revisor to move the section of paragraph that deals with the summary of facts and rationale and rearrange so that it is clear they are also subject to non-disclosure. Representative Bethel seconded. Motion carried.

Representative Dillmore made a motion in paragraph (w) where the word "information" is used in conjunction with records and reports, the word "information" be stricken. Representative Kinzer seconded. Motion carried.

CONTINUATION SHEET

Minutes of the House Corrections and Juvenile Justice Committee at 1:30 p.m. on March 19, 2009, in Room 535-N of the Capitol.

A discussion followed.

Chairperson Colloton made a motion to add the word “documents” everywhere in the bill before the words “records and reports” where it appears. Representative McCray-Miller seconded. Motion carried.

Representative Dillmore moved to report Sub for HB2340 as amended out favorably for passage. Representative Bethel seconded. Motion carried.

Chairperson Colloton announced to the Committee that the domestic violence tag bill had amendments offered from the Governor’s Task Force on Domestic Violence and neither side could agree and she had submitted the bill and all the amendments to the Judicial Council and they should have something for the Committee next session.

HB 2235 - Fleeing or eluding a police officer, appropriately marked official vehicle or bicycle.

Chairperson Colloton moved the Committee’s attention to **HB 2235** stating it had been assigned back to the Committee because of some concern on the bill by the House members.

Representative McCray-Miller moved to adopt HB 2235. Representative Pauls seconds.

A discussion followed with Representative Pauls stating she was offering an amendment. (Attachment 3)

Representative Pauls moved an amendment which she believes would address the concerns. Representative Spaulding seconded.

A discussion followed with Ed Klumpp, Kansas Association of Chiefs of Police and Kansas Police Officers Association, entering the discussion and offering his suggestions for the Pauls amendment.

After a lengthy discussion Representative Pauls and Representative Spaulding withdrew their motion.

Chairperson Colloton called on Jason Thompson, Office of the Revisor of Statutes, to give the language of a new amendment. Mr. Thompson stated it should read as follows: “**(2) It shall be an affirmative defense to any prosecution under this paragraph that the driver’s conduct in violation of this sub-section by caused by such driver’s belief that such vehicle or bicycle pursuing is not a police vehicle or police bicycle.**”

Representative Pauls moved to approve the amendment by the Revisor, Jason Thompson. Representative McCray-Miller seconded. Motion carried.

Chairperson Colloton recognized Representative Roth . He offered an amendment that would add the language, “locked down or disrupted as to regular, ongoing activities” to 21-3149a, Aggravated criminal threat. After the word “evacuated” and before the word s “as a result of the threat or threats.” (Attachment 4)

Representative Roth moved his amendment. Representative Bethel seconded. Motion carried.

Chairperson Colloton recognized Representative Pauls. She offered an amendment for the Kansas Sentencing Commission on 21-4715, Offenders criminal history, that stated “should the offender later challenge such persons criminal history which has been previously established, the burden should be on the offender to prove such persons criminal history by a preponderance of evidence.” She explained the reason for the amendment.

Representative Pauls moved her amendment. Representative Kinzer seconded. Motion carried.

Representative Roth moved to pass HB 2335 out favorably as amended. Representative Bethel seconded.

Representative Colloton thanked the Committee for all their hard work this session and adjourned the meeting at 3:00 p.m. with no other meetings scheduled for this session.

CORRECTIONS & JUVENILE JUSTICE GUEST LIST

DATE: 03-19-09

NAME	REPRESENTING
Patti Briggs	Parole Board
Dawn Pleas-Bailey	Southwestern College
JOHN C. BOTTENBERG	SHERIFFS ASSOC

THE NATION'S NEWSPAPER

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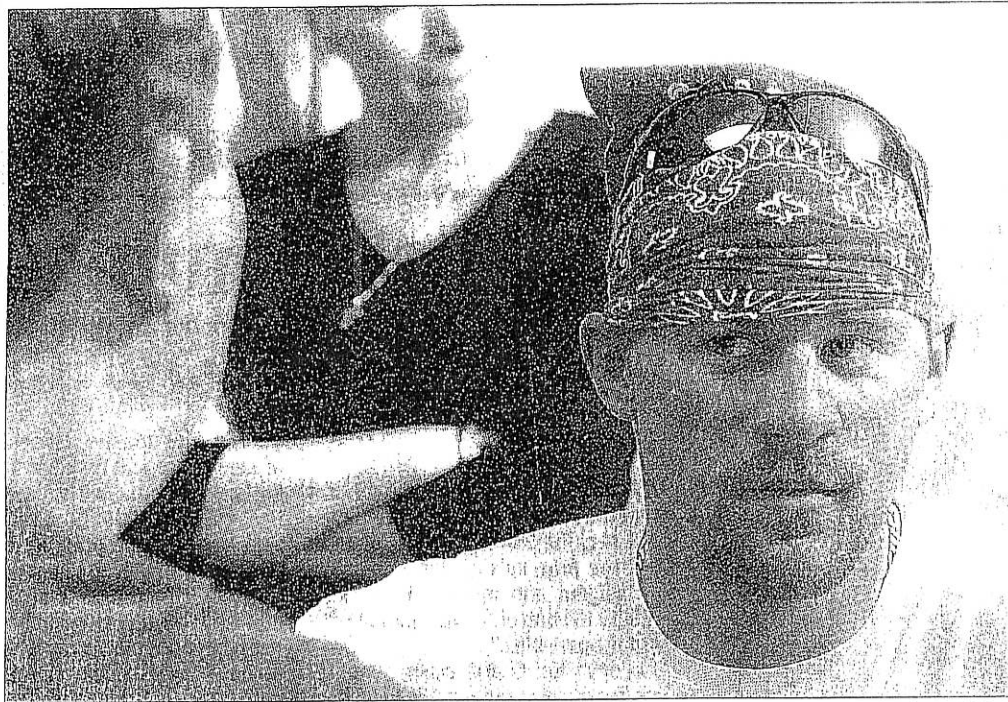
USA TODAY

NO. 1 IN THE USA



Justice redefined

Cutting costs in corrections



By Craig Hacker for USA TODAY

"Behavioral modification" session: Probationer Tyler Tomlinson, right, listens as Michelle Stephenson, background, leads a class called Change for Success in Salina, Kan., last month.

To save money on prisons, states take a softer stance

Critics see threat to public safety

By Kevin Johnson
USA TODAY

SALINA, Kan. — In a hushed conference room overlooking the town's main drag, eight convicted felons, including an aspiring amateur fighter, brandish bright Crayola markers.

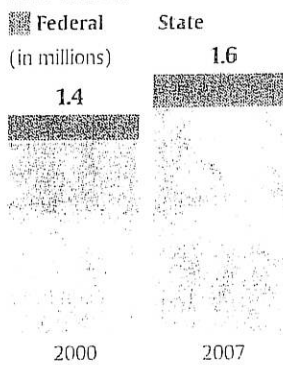
Their goal is to match their personalities to one of four colors. Tim Witte, 27, on probation for evading arrest, eyes the task as if sizing up a fellow middle-weight on Kansas' gritty cage-fighting circuit. Witte and two drug offenders settle on orange.

The color, indicative of a restless, risk-taking personality, is the hue of choice for most offenders, says Michelle Stephenson, the corrections officer leading the unusual exercise.

Not long ago, Stephenson ad-

Prison population up

The overall prison population in the USA rose nearly 15% from 2000 to 2007.



By Julie Snider, USA TODAY

Cover story

mits, the evening state-sponsored "behavioral modification" session — designed to help offenders avoid costly prison

time — might have been considered a perversion of this conservative state's strict law-and-order credo. But this isn't the same Kansas anymore.

"It used to be that it was more about waiting for them to mess up and send them back to prison," Stephenson says. "In this time and this economy, you can't afford to keep doing that. There is a better way to do business."

The class is part of a state effort to save millions of dollars in prison costs by changing how criminals are treated. Kansas is closing some prisons, boosting support for offenders on probation and declining to return them to prison for every probation violation.

Here and across the nation, the deepening financial crisis is forcing dramatic changes in the hard-line, punishment-based philosophy that has dominated the USA's criminal justice system for nearly two decades.

See COVER STORY next page ▶

Corrections and Juvenile Justice
Date: 3-19-09
Attachment # 1-1

States ease hard-line treatment of inmates to

Continued from 1A

As 31 states report budget gaps that the National Governors Association says totaled nearly \$30 billion last year, criminal justice officials and lawmakers are proposing and enacting cost-cutting changes across the public safety spectrum, with uncertain ramifications for the public.

There is no dispute that the fiscal crisis is driving the changes, but the potential risks of pursuing such policies is the subject of growing debate. While some analysts believe the philosophical shift is long overdue, others fear it could undermine public safety.

Ryan King of The Sentencing Project, a group that advocates for alternatives to incarceration,

Cover story

says the financial crisis has created enough "political cover" to fuel a new look at the realities of incarcerating more than 2 million people and supervising 5 million others on probation and parole.

"It's clear that locking up hundreds of thousands of people does not guarantee public safety," he says.

Joshua Marquis, a past vice president of the National District Attorneys Association, agrees the economy is prompting an overhaul of justice policy but reaches a very different conclusion about its impact on public safety.

"State after state after state appears to be waiting for the opportunity to wind back some of the most intelligent sentencing policy we have," Marquis says. "If we do this, we will pay a price. No question."

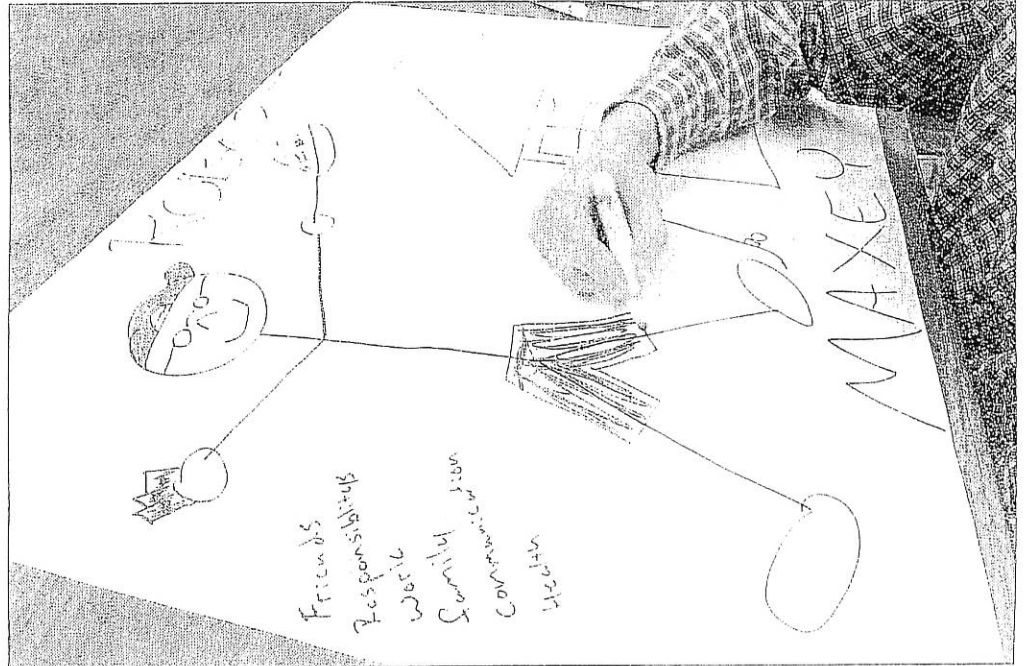
Among recent state actions:

► Kansas officials closed two detention facilities last month to save about \$3.5 million. A third will be shuttered by April 1, says Roger Werholtz, chief of the state prison system. Inmates housed in the closed units will be moved to other facilities in the state.

► A California panel of federal judges recommended last month that the cash-strapped state release up to 57,000 non-violent inmates from the overcrowded system to help save \$800 million.

► Kentucky officials last year allowed for the early release of non-violent offenders up to six months before their sentences end to serve the balance of their time at home.

► New Mexico and Colorado are among seven states where some lawmakers are calling for an end to the death penalty, arguing capital cases have become too costly to prosecute, reports the Death Penalty Information Cen-



By Craig Hacker for USA TODAY

Finding his true colors: Probationer Robert Maxey works on a sketch during a Change for Success class last month in Salina, Kan. In one exercise, participants pick colors that best match their personalities.

ter, which tracks death penalty law and supports abolition of the death penalty.

"State governments operated on the principle that if you built it, they would come," King says of prison construction during the economic boom. Since 1990, corrections spending has increased by an average of 7.5% annually, reports the National Association of State Budget Officers.

"As soon as they built those prisons, they filled them," King says. "They were never able to keep up with it. There is certainly a different atmosphere now."

New approach to punishment

Kansas House Speaker Mike O'Neal admits he isn't the "logical guy" to lead the charge for anything that could be considered soft on crime.

During his 25 years in the state Legislature, O'Neal, a Republican, has sought longer sentences for sex offenders, backed tougher sanctions for drug dealers and supported executions.

"We're kind of a hang-'em-high state," O'Neal says.

Yet in 2007, as prison construction costs soared and state prisons reached near-capacity, O'Neal made what he calls a "surprising" political calculation: He helped push through a measure calling for a 20% reduction in probationers sent to prison for violating conditions of their release.

Despite O'Neal's fears that the new policy could allow offenders to commit other crimes, he felt spiraling costs demanded a new approach to punishing criminals.

The law gives local probation departments broader authority to decide whether technical vio-

Tracking inmates



To see an interactive U.S. map showing the changes in state prison populations since 2000, go to www.usatoday.com

lations of release, such as missed meetings with probation officers or failed drug tests, should result in prison. In Kansas, up to two-thirds of all new prison admissions each year are offenders who violated terms of their release.

The criminal justice overhaul has gained urgency because of the economic collapse, O'Neal says. Yet the sour economy also could jeopardize the new \$4 million probation program. O'Neal is fighting to keep it, arguing it will save the state money over time.

So far, the cuts in prison admissions have saved about \$80 million in future construction costs, state prison chief Werholtz says.

Among the most successful probation operations, Werholtz says, is the small, community corrections office run by director Annie Grevas in Salina, a central Kansas town of about 46,000.

Over the past year, Grevas has transformed the enforcement-oriented operation, heavily focused on the surveillance of offenders, into a service broker. Probation officers now help offenders find work, health care, housing, counseling, transportation and child care.

During the past several months, for example, the office spent \$110 to cover an offender's utility payments; \$500 for a rent payment; \$600 for six bikes the office loans to get to job interviews; \$77 for a YMCA membership to help an offender improve his physical condition and \$320 for eight anger-management

counseling sessions.

All of the assistance is aimed at keeping offenders out of costly prison cells, although Kansas officials say they are only beginning to review whether the offenders who received the assistance have committed new offenses.

Last year, Grevas says, Salina cut its probation revocations by 35%. "It is a total philosophical change," she says. "Just as we expected clients to change, we needed to change."

Sentencing policies criticized

Jeremy Travis, president of the John Jay College of Criminal Justice in New York, says financial troubles are forcing fundamental changes in criminal justice philosophy well beyond Kansas.

"Out of this turmoil, some states realize that the size of the prison population is more than they can bear," he says. "And the public safety yield (from jailing so many) is largely uncertain."

He says mandatory minimum sentencing and the so-called "three-strikes" mandatory life terms for repeat offenders, which swept the country in the early 1990s, "may have to be modified or completely undone."

A report out this month by the Pew Center on the States, a public policy research group, found costly prison growth and higher incarceration rates do not reflect an increase in crime or the nation's population.

"More people are behind bars principally because of a wave of policy choices that are sending more lawbreakers to prison and ... imposing longer prison stays on inmates," the report says.

As a result, it concluded, state corrections-related costs have soared from \$10.6 billion two



reduce prison costs

decades ago to more than \$44 billion last year.

"Coupled with tightening state budgets, the greater prison expenditures may force states to make tough choices about where to spend their money," it said.

Margaret Colgate Love, director of the American Bar Association's Commission on Effective Criminal Sanctions, says the public "is very ready to support crime-control strategies aimed at helping people."

She says strict sentencing policies have "devastated" families and contributed to the "disastrous" overcrowded prison system in California, one of the first states to adopt the three-strikes sentencing law.

"Every time we say something or someone is soft on crime, we perpetuate a dysfunctional response to crime control," Colgate Love says. "If one good thing comes out of this economic crisis, it would be that we deal with people differently."

New Mexico, citing excessive costs, is making a dramatic change in its system. Lawmakers voted last week to abolish the death penalty, a move projected to save the state "millions of dollars," according to a state report on the measure's fiscal implications. Gov. Bill Richardson has until today to decide whether to veto the legislation.

"New Mexico does not receive much return on its death penalty investment," the state report said, adding there is just a 4.5% chance that any "multimillion-dollar" death penalty prosecution will end with an execution.

David Albo, a Republican delegate to the Virginia Legislature who has supported eliminating parole and harsher sentences for drug dealers, rejects money-saving proposals that involve early release of offenders, prison closures and other strategies.

This year, Virginia lawmakers defeated a proposal to allow for the early release of non-violent offenders as part of a plan to save \$5 million. Albo and other opponents argued altering punishments amounted to "fraud on the citizens of Virginia."

"If a jury said you are going to serve 10 years, you don't go back and change that," Albo says. "I'm against anything that changes a person's sentence."

'My goal is to break the chain'

Patrick Young swears he'll do better this time.

Now on probation in Kansas for burglary, theft and failure to register as a sex offender, Young, 29, has been to prison four times since age 17. Three of those prison terms were triggered by violations of probation or parole.

The sex offense, involving a relationship with a 15-year-old girl

when he was 17, has turned off more than one prospective employer, Young says.

His case is one of many that will test how well Kansas' new approach to crime and punishment works. In regular meetings with his case officer, Young is getting more support than he has received at any time in his adult life.

More than a year ago Young, given his long record of failure, likely would have been buried in the state prison system, says Ruth McDaniel, a Salina corrections officer who manages his case.

Now, McDaniel believes Young has better than long odds of successfully completing his sentence outside prison walls. She says he has matured since starting his term of supervision in Salina in March 2007.

Before he was laid off at the end of February, he was a forklift operator at a local food company for 18 months, the longest stretch of continuous employment in his life.

McDaniel helped arrange family counseling sessions to teach Young how to cope with the recent birth of a son. He is seeking financial aid to enroll in an electronics course to improve his chances at a better job.

"He has good family support," McDaniel says, adding that he has repaired strained relationships with his parents. "I see him as someone who will successfully complete his probation."

Young still has a ways to go. He must pay \$7,000 in fines before he is released from supervision. That means finding more steady work amid an economic crisis.

"When I went to prison, I didn't get a lick of help," he says. "My goal is to break the chain. This place has given structure to somebody who didn't know how to change."



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PROPOSED Substitute for HOUSE BILL No. 2340
By Committee on Corrections and Juvenile Justice

AN ACT concerning the parole board; relating to factors and rationale used to determine parole; amending K.S.A. 2008 Supp. 22-3717 and 75-4319 and repealing the existing sections.

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

Section 1. KSA 2008 Supp. 22-3717 is hereby amended to read as follows: 22-3717.

(a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628 prior to its repeal; K.S.A. 21-4635 through 21-4638, and amendments thereto; K.S.A. 8-1567, and amendments thereto; K.S.A. 21-4642, and amendments thereto; and K.S.A. 21-4624, and amendments thereto, an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated murder, committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(3) Except as provided by K.S.A. 1993 Supp. 21-4628 prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(4) An inmate sentenced to imprisonment for a violation of subsection (a) of K.S.A. 21-3402, and amendments thereto, committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

(c) (1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608 and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

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(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

(d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 1 through 4 crimes and drug severity levels 1 and 2 crimes must serve 36 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes and drug severity level 3 crimes must serve 24 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 7 through 10 crimes and drug severity level 4 crimes must serve 12 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(D) (i) The sentencing judge shall impose the postrelease supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated. In that event, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to subsection (e) of K.S.A. 21-4714, and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the parole board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718, and amendments thereto.

(vi) Upon petition, the parole board may provide for early discharge from the postrelease supervision period upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant

to subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the parole board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated, shall be registered according to the offender registration act, K.S.A. 22-4901 through 22-4910, and amendments thereto.

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(2) As used in this section, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, and amendments thereto; or

(K) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section.

"Sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the Kansas parole board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or

conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724, and amendments thereto, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the Kansas parole board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628 prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the Kansas parole board.

(g) Subject to the provisions of this section, the Kansas parole board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, for deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The Kansas parole board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least the month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the

inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the Kansas parole board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the parole board will review the inmates proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) Before ordering the parole of any inmate, the Kansas parole board shall have the inmate appear ~~before~~ either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the Kansas parole board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the parole board finds that it is not reasonable to expect that parole would

be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to 10 years but any such deferral shall require the board to state the basis for its findings.

(k) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(l) The Kansas parole board shall adopt rules and regulations in accordance with K.S.A. 77-415 et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the Kansas parole board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

(2) to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so;

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized not-for-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable; and

(5) unless it finds compelling circumstances which would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the parole board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the

amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the Kansas parole board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the Kansas parole board grants the parole of an inmate, the board, within 10 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to the effective date of this act who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section for offenders convicted of severity level 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity level 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity level 5 and 6 crimes on the sentencing guidelines grid for nondrug crimes and severity level 3 crimes on the sentencing guidelines grid for drug crimes on or before January 1, 2001.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the Kansas parole board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(v) Whenever the Kansas parole board or the court orders a person to be electronically monitored, the board or court shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board or court shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

(w) On and after July 1, 2008 through June 30, 2010, information, records and reports from the parole board concerning factors and rationale used to determine the granting or denial of parole, shall be available to members of the standing senate committee on judiciary, house committee on corrections and juvenile justice and the joint committee on corrections and juvenile justice, when carrying out such committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Information, records and reports received by the committee are confidential and shall not be further disclosed. Such information, records and reports received shall not be subject to K.S.A. 45-221, and amendments thereto. All copies of such information, records and reports shall be returned to the parole board prior to the open meeting resuming. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. The parole board shall provide to such legislative members a summary statement of the factors and rationale used to determine such grant or denial. Such information shall include such summary statement and any correspondence received by the parole board relating to such grant or denial.

Sec. 2. K.S.A. 2008 Supp. **75-4319** is hereby amended to read as follows: **75-4319.(a)** Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;
- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;
- (6) preliminary discussions relating to the acquisition of real property;
- (7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;
- (8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (d)(1) of K.S.A. 38-1507 and amendments thereto or subsection (e) of K.S.A. 38-1508 and amendments thereto;
- (9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;
- (10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e)

of K.S.A. 44-596 and amendments thereto;

(11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119 and amendments thereto;

(12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;

(13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or

(D) private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;

(14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto;~~and~~

(15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2008 Supp. 75-7427, and amendments thereto;~~and~~

(16) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (w) of K.S.A. 22-3717, and amendments thereto.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

(d) Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)(13), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action. Any confidential records or information relating to the parole board provided or received under the provisions of subsection (b)(16), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 3. K.S.A. 2008 Supp. **22-3717 and 75-4319** are hereby repealed.

Sec. 4. Statute book.

HOUSE BILL No. 2235

By Committee on Corrections and Juvenile Justice

2-3

Proposed Amendment - Representative Pauls
House Committee on Corrections and Juvenile Justice
HB2235-Balloon.pdf (RS - JThompson - 03/19/09)

Corrections and Juvenile Justice
Date: 3-19-09
Attachment # 3-1

9 AN ACT concerning motor vehicles; relating to fleeing or eluding a po-
10 lice officer; amending K.S.A. 8-1568 and repealing the existing section.
11

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

13 Section 1. K.S.A. 8-1568 is hereby amended to read as follows: 8-
14 1568. (a) Any driver of a motor vehicle who willfully fails or refuses to
15 bring such driver's vehicle to a stop, or who otherwise flees or attempts
16 to elude a pursuing police vehicle or police bicycle, when given visual or
17 audible signal to bring the vehicle to a stop, shall be guilty as provided
18 by subsection (c)(1), (2) or (3). ~~The signal given by the police officer may~~
19 ~~be by hand, voice, emergency light or siren. The officer giving such signal~~
20 ~~shall be in uniform, prominently displaying such officer's badge of office,~~
21 ~~and the officer's vehicle or bicycle shall be appropriately marked showing~~
22 ~~it to be an official police vehicle or police bicycle.~~ ←

(1)

23 (b) Any driver who violates the provisions of subsection (a) and who:
24 (1) Commits any of the following during a police pursuit: (A) Fails to stop
25 for a police road block; (B) drives around tire deflating devices placed by
26 a police officer; (C) engages in reckless driving as defined by K.S.A. 8-
27 1566 and amendments thereto; (D) is involved in any motor vehicle ac-
28 cident or intentionally causes damage to property; or (E) commits five or
29 more moving violations; or

(2) It shall be an affirmative defense to any prosecution under this subsection that the driver's conduct in violation of this subsection was caused by such driver's belief that such driver was in imminent danger of bodily injury from the person pursuing such driver's vehicle.

30 (2) is attempting to elude capture for the commission of any felony,
31 shall be guilty as provided in subsection (c)(4).

32 (c) (1) ~~Every person convicted of violating~~ *Violation of* subsection
33 (a), upon a first conviction, ~~shall be guilty of~~ *is* a class B nonperson
34 misdemeanor.

35 (2) ~~Every person convicted of violating~~ *Violation of* subsection (a),
36 upon a second conviction of such subsection, ~~shall be guilty of~~ *is* a class
37 A nonperson misdemeanor.

38 (3) ~~Every person convicted of violating~~ *Violation of* subsection (a),
39 upon a third or subsequent conviction of such subsection, ~~shall be guilty~~
40 ~~of~~ *is* a severity level 9, person felony.

41 (4) ~~Every person convicted of violating~~ *Violation of* subsection (b)
42 ~~shall be guilty of~~ *is* a severity level 9, person felony.

43 (d) *The signal given by the police officer may be by hand, voice, emer-*

1 gency light or siren:

2 (1) *If the officer giving such signal is within or upon an official police*
3 *vehicle or police bicycle at the time the signal is given, the vehicle or*
4 *bicycle shall be appropriately marked showing it to be an official police*
5 *vehicle or police bicycle; or*

6 (2) *if the officer giving such signal is not utilizing an official police*
7 *vehicle or police bicycle at the time the signal is given, the officer shall be*
8 *in uniform, prominently displaying such officer's badge of office at the*
9 *time the signal is given.*

10 ~~(d)~~ (e) For the purpose of this section:

11 (1) "Conviction" means a final conviction without regard whether
12 sentence was suspended or probation granted after such conviction. For-
13 feiture of bail, bond or collateral deposited to secure a defendant's ap-
14 pearance in court, which forfeiture has not been vacated, shall be equiv-
15 alent to a conviction.

16 (2) "Appropriately marked" *official police vehicle or police bicycle*
17 *shall include, but not be limited to, any police vehicle or bicycle equipped*
18 *with functional emergency lights or siren or both and which the emer-*
19 *gency lights or siren or both have been activated for the purpose of sig-*
20 *nalng a driver to stop a motor vehicle.*

21 ~~(e)~~ (f) The division of vehicles of the department of revenue shall
22 promote public awareness of the provisions of this section when persons
23 apply for or renew such person's driver's license.

24 Sec. 2. K.S.A. 8-1568 is hereby repealed.

25 Sec. 3. This act shall take effect and be in force from and after its
26 publication in the statute book.

2-2

Proposed Amendment to a criminal law bill.
Representative Charlie Roth
March 17, 2009

21-3419. Criminal threat. (a) A criminal threat is any threat to:

(1) Commit violence communicated with intent to terrorize another, or to cause the evacuation, lock down or disruption in regular, ongoing activities of any building, place of assembly or facility of transportation, or in reckless disregard of the risk of causing such terror or evacuation, lock down or disruption in regular, ongoing activities;

(2) adulterate or contaminate any food, raw agricultural commodity, beverage, drug, animal feed, plant or public water supply; or

(3) expose any animal in this state to any contagious or infectious disease.

(b) A criminal threat is a severity level 9, person felony.

(c) As used in this section, "threat" includes any statement that one has committed any action described by subsection (a)(1) or (2).

21-3419a. Aggravated criminal threat. (a) Aggravated criminal threat is the commission of one or more crimes of criminal threat, as defined in K.S.A. 21-3419 and amendments thereto, when a public, commercial or industrial building, place of assembly or facility of transportation is evacuated, locked down or disrupted as to regular, ongoing activities as a result of the threat or threats.

(b) Aggravated criminal threat is a severity level 5, person felony.

Corrections and Juvenile Justice

Date: 3-19-09

Attachment # 4-1

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February 11, 2009

The Honorable Pete Brungardt
Kansas State Senator
District 24
522 Fairdale Road
Salina, KS 67401

The Honorable Charles Roth
Kansas House of Representative
District 71
3 Crestview
Salina, KS 67401

The Honorable Deena Horst
Kansas House of Representative
District 69
920 S. Ninth
Salina, KS 67401

The Honorable Joshua L. Svaty
Kansas House of Representative
District 108
1606 Avenue JJ
Ellsworth, KS 67439

RE: Amendments to K.S.A. 21-3419, Criminal Threat, and K.S.A. 21-3419(a), Aggravated Criminal Threat

Dear Everyone:

I represent U.S.D. #306. You have probably followed in the media the recent jury trial in which Gary Olson was convicted of one misdemeanor count of telephone harassment and one felony count of criminal threat. However, he was found not guilty on the other count of felony

February 11, 2009

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criminal threat involving an incident which occurred on September 5, 2007 at the Southeast of Saline School.. Originally he was charged with one felony count of aggravated criminal threat for the incident which occurred on that date which caused the entire school to be locked down for more than a couple of hours. Judge Dan Hebert had earlier ruled at the preliminary hearing in this criminal case that because during the incident in issue the students were locked down in their rooms that they were "evacuated" from the hallways, lunch room, restrooms, etc. during this lock down activity and this was sufficient evidence to allow the charge to proceed to a jury trial on this count. Then, during the recent jury trial, Judge Hebert changed his ruling in this regard and indicated that since the students literally weren't taken outside of or removed from the school building as a result of the threat in issue, they were not "evacuated" from the school as required by this statute. Consequently, Judge Hebert sustained objections regarding the introduction of certain evidence that would have been introduced by the State of Kansas to establish the wages and salaries lost as a result of persons being "evacuated" as a result of the threat in issue.

We request that a bill be introduced which would amend these applicable statutes. We are proposing that K.S.A. 21-3419(a)(1) be amended as follows or in some similar manner:

"(a) A criminal threat is any threat to: (1) commit violence committed with intent to terrorize another, or to cause the evacuation, lockdown, or disruption in regular ongoing activities of any building, place of assembly or facility of transportation, or in reckless disregard of the risk of causing such terror, evacuation, lockdown, or disruption in regular ongoing activities; .." (Underlined language is the new proposed amended language.)

We also request that K.S.A. 21-3419(a) be amended as follows or in some similar manner:

"... (a) Aggravated criminal threat is the commission of one or more crimes of criminal threat, as defined in K.S.A. 21-3419 and amendments thereto, when a public, commercial, or industrial building, place of assembly or facility of transportation is evacuated, locked down, or disrupted as to regular ongoing activities as a result of the threat or threats.

(b) Aggravated criminal threat is a severity level 6, person felony when the loss of productivity measured by the total wages and salaries of all persons evacuated, locked down, or disrupted as to regular ongoing activities as a result of the threat or threats where the period of evacuation, lockdown or disruption is less than \$500.

(c) Aggravated criminal threat is a severity level 5, person felony when the loss of productivity measured by the total wages and salaries of all persons evacuated, locked down or disrupted as to regular ongoing activities as a result of the threat or threats where the period of evacuation, lockdown or disruption is at least \$500

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but less than \$25,000.

(d) Aggravated criminal threat is a severity level 4, person felony when the loss of productivity measured by the total wages and salaries of all persons evacuated, locked down, or disrupted as a result of the threat or threats for the period of evacuation equals or exceeds \$25,000.”

Any assistance in this regard would be greatly appreciated. If you have any questions, please advise.

Very truly yours,



Norman R. Kelly

NRK/rrb

cc: Dr. Justin Henry, Supt., U.S.D. #306
Christina Trocheck, Assistant Saline County Attorney