

Approved: 12-18-2010

Date

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Pat Colloton at 9:30 a.m. on February 5, 2010, in Room 144-S of the Capitol.

All members were present except:

Representative Melany Barnes- excused  
Representative Stan Frownfelter- excused  
Representative Sheryl Spalding- 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:

Patti Biggs, Kansas Parole Board  
Secretary Roger Werholtz, Kansas Department of Corrections

Others attending:

See attached list.

Patti Biggs, Kansas Parole Board

Secretary Roger Werholtz, Kansas Department of Corrections

**HB 2505 - Release procedures and discharge of paroled inmates.**

Chairperson Colloton called the meeting to order and opened the hearing on **HB 2505**. She called on Patti Biggs, Parole Board, to give her testimony as a proponent of the bill. Ms. Biggs presented written copy of her testimony. (Attachment 1) Ms. Biggs stated the bill deals with discharge from supervision. Under the current law, the Parole Board may discharge an offender from supervision at a time after one year of community supervision is completed. This bill removes the one year provision but the Parole Board still must determine that the final release is not incompatible with the best interest of society and the welfare of the individual. In closing, she stated the Parole Board supports this bill.

A short discussion followed with some Committee members having concerns.

With no others to speak on the bill, Chairperson Colloton closed the hearing on **HB 2505** and opened the hearing on **HB 2506**.

**HB 2506 - Requiring the parole board to weigh the proportionality of a crime committed prior to July 1, 1993, to the sentence for the same crime under the new guidelines.**

Chairperson Colloton called on Patti Biggs, Kansas Parole Board, to give her testimony as a proponent of the bill. Ms. Biggs presented written copy of her testimony. (Attachment 2) Ms. Biggs stated the bill provides additional statutory clarity and specificity in its direction to the direction Parole Board. The bill specifies the current sentencing guidelines as the basis for the computation of guideline terms. It also specifies that the element of proportionality, as it relates to parole suitability deliberations, is applicable only to those crimes committed prior to July 1, 1993, that is, it does not apply to off-grid offenses.

A short discussion followed.

With no others to speak to the bill, Chairperson Colloton closed the hearing on **HB 2506** and opened the hearing on **HB 2507**.

**HB 2507 - Parole and postrelease conditions established by parole board.**

CONTINUATION SHEET

Minutes of the House Corrections and Juvenile Justice Committee at 1:30 p.m. on February 5, 2010, in Room 144-S of the Capitol.

Chairperson Colloton called on Patti Biggs, Kansas Parole Board, to give her testimony as a proponent of **HB 2507**. Ms. Biggs presented written copy of her testimony. (Attachment 3) She stated the bill provides additional statutory clarity and specificity in its direction to the Parole Board. It refocuses the board in imposing special conditions of post incarceration supervision such that non-criminogenic conditions are removed (specifically, attainment of High School diploma or GET) and adds specific consideration of evidence based practices.

A discussion followed with the Committee requesting additional information regarding the evidence based studies and removing GED.

With no others to speak on the bill Chairperson Colloton closed the hearing on **HB 2507** and opened the hearing on **HB 2508**.

**HB 2508 - Shortening the length of deferral time for certain inmates' parole hearings to five years and requiring review of inmates on a 10 year deferral.**

Chairperson Colloton called on Patti Biggs, Kansas Parole Board, to give her testimony as a proponent of **HB 2508**. Ms. Biggs presented written copy of her testimony. (Attachment 4) She stated this bill provides maximum deferral or pass period between parole board hearings for non-parole suitable candidates be reduced to five years from the present ten year provision. In closing, she stated the Parole Board takes no position on this bill and views it as a policy decision.

A short discussion followed.

With no others to speak on the bill, Chairperson Colloton closed the hearing on **HB 2508** and opened the hearing on **HB 2509**.

**HB 2509 - Sub for H 2509 by Committee on Corrections and Juvenile Justice - Providing the procedure by which the secretary of corrections refers a potential sexually violent predator to the multi disciplinary team for analysis and a determination of placement.**

Chairperson Colloton called on Patti Biggs, Kansas Parole Board, to give her testimony as a proponent of **HB 2509**. Ms. Biggs presented written copy of her testimony. (Attachment 5) Ms. Biggs stated the bill concept is to have the multi disciplinary team review offenders potentially subject to sexually violent predator status prior to their placement by the Secretary of Corrections in the work release setting. The Parole Board suggests this as a way to remove a potential barrier in the facilitation of transitional programing for long-term incarcerated offenders with the explicit belief that the transitional programing of the work release program can reduce an offender's risk to offend.

Chairperson Colloton called the Committee's attention to the "written only" proponent testimony of Roger Werholtz, Secretary, Kansas Department of Corrections. (Attachment 6)

A discussion followed with Chairperson Colloton giving a review of how the bill was developed in the Corrections and Juvenile Justice Oversight Committee. It was noted that the Secretary of Corrections has a balloon for the bill which is attached to his testimony and the Parole Board supports the balloon as written. Tim Madden, Legal Counsel, Kansas Department of Corrections, entered the discussion addressing questions of the Committee and stating the reasons that the Department of Corrections is proposing a balloon on the bill.

With no others to speak to the bill, Chairperson Colloton closed the hearing on **HB 2509** and opened the hearing on **HB 2504**.

**HB 2504 - Eliminating the addition of good time credits earned while in prison to postrelease supervision time calculations.**

Chairperson Colloton called on Patti Biggs, Kansas Parole Board, to give her testimony as a proponent of **HB 2504**. Ms. Biggs presented written copy of her testimony. (Attachment 7) Ms. Biggs stated the bill

CONTINUATION SHEET

Minutes of the House Corrections and Juvenile Justice Committee at 1:30 p.m. on February 5, 2010, in Room 144-S of the Capitol.

post release supervision term consistent with that imposed by the Court. She explained the “tacking” of prison good-time earning to the duration of post release supervision is not an evidence-based practice and does not yield reductions in community risk nor in offender returns to prison. In closing, she stated the Parole Board supports the provisions of the bill.

Chairperson Colloton called the Committee’s attention to the “written only” proponent testimony of Roger Werholtz, Secretary, Kansas Department of Corrections. (Attachment 8)

A discussion followed.

With no others to testify, Chairperson Colloton closed the hearing on **HB 2504**.

Chairperson Colloton stated that all the above bills would be available for consideration next week and called the Committee’s attention to **HB 2468** for consideration.

**HB 2468 - Requiring offenders guilty of attempt, conspiracy or solicitation to commit any crime requiring offender registration for life to register as an offender.**

**Representative Kinzer made a motion to pass HB 2468 out favorably for passage. Representative Pauls seconded.**

Chairperson Colloton called the Committee’s attention to **HB 2435** for consideration.

**HB 2435 - Certain crimes in which the penalty is an offgrid felony, attempt, conspiracy and criminal solicitation are also offgrid; aggravated habitual sex offender**

**Representative Bethell made a motion to pass HB 2435 out favorably for passage. Representative Brookens seconded. Motion carried.**

Chairperson Colloton adjourned the meeting at 11:00 a.m. with the next meeting scheduled for February 8, 2010 at 1:30 p.m. in room 144S.

# CORRECTIONS & JUVENILE JUSTICE GUEST LIST

DATE: 2-5-10

NAME	REPRESENTING
Marie McNeal	Parole Board
Tim Madden	KVOE
P Biggs	Parole Bd
Thady Ailten	Cap - Journ
KOB MEHL	KEARNEY & Assoc.
Wigh Keck	Hein Law firm
Mark Gleason	Judicial Branch

### MEMORANDUM

To: House Corrections and Juvenile Justice Committee  
Chairperson Colloton, Vice-Chairperson Patton

From: Kansas Parole Board, Patricia Biggs, Member *PB*

Date: February 5, 2010

Re: 2010 HB 2505 – discharge from supervision

- The concept of 2010 HB 2505 generated from the Parole Board Oversight Committee work of this past interim session.
- Under current law, the Parole Board may discharge an offender from supervision at a time after one year of community supervision is completed. 2010 HB 2505 removes the one year provision. Not changed is that the Parole Board must determine that the final release "...is not incompatible with the best interest of society and the welfare of the individual...".
- The change provided for under this bill is consistent with criminal justice evidence based policy which has found that over-supervision in the community can serve to increase criminal risk.
- The change provided for under this bill also creates a more coherent perspective with regard to many offenses in terms of proportionality – particularly where the minimum and maximum terms imposed have a wide disparity (for example, a 5 to life sentence) – when considering discharge from supervision.

The Parole Board supports the provisions of HB 2505.

Corrections and Juvenile Justice

Date: 2-5-10

Attachment # 1

KANSAS PAROLE BOARD

Marie McNeal, Administrator

Robert Sanders, Chairperson  
Patricia Biggs, Member  
Tom Sawyer, Member

**MEMORANDUM**

**To:** House Corrections and Juvenile Justice Committee  
Chairperson Colloton, Vice-Chairperson Patton

**From:** Kansas Parole Board, Patricia Biggs, Member *PB*

**Date:** February 5, 2010

**Re:** 2010 HB 2506 – proportionality - current sentencing guidelines

- The concept of 2010 HB 2506 generated from the Parole Board Oversight Committee work of this past interim session.
- This bill provides additional statutory clarity and specificity in its direction to the Parole Board.
- Under current law, the Parole Board shall consider, along with other factors, the "...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"
- The changes provided for under this bill are:
  - it specifies the current sentencing guidelines as the basis for the computation of guideline terms
  - it specifies that the element of proportionality, as it relates to parole suitability deliberations, is applicable only to those crimes committed prior to July 1, 1993 – that is, it does not apply to off-grid guidelines offenses.
- This bill's specifications will ensure that there is congruence in understanding of this statutory factor between all stakeholders (for example, the parole board, the offender, the victim/victim family, the offender family, public officials, etc.)

The Parole Board supports the provisions of HB 2506.

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Date: 2-5-10

Attachment # 2

KANSAS PAROLE BOARD

Marie McNeal, Administrator



Robert Sanders, Chairperson  
Patricia Biggs, Member  
Tom Sawyer, Member

**MEMORANDUM**

**To:** House Corrections and Juvenile Justice Committee  
Chairperson Colloton, Vice-Chairperson Patton

**From:** Kansas Parole Board, Patricia Biggs, Member *PB*

**Date:** February 5, 2010

**Re:** 2010 HB 2507 – post incarceration supervision conditions

- The concept of 2010 HB 2507 generated from the Parole Board Oversight Committee work of this past interim session.
- This bill provides additional statutory clarity and specificity in its direction to the Parole Board.
- Under current law, the Parole Board assigns conditions of post incarceration supervision to all releasing offenders. K.S.A. 22-3717 specifies certain of these conditions.
- HB 2507 refocuses the board in imposing special conditions of post incarceration supervision such that non-criminogenic conditions are removed (specifically, attainment of a High School diploma or GED) and adds specific consideration of evidence based practices.
  - In general, evidence based practices in the field of corrections direct the targeting of conditions or any intervention around the individual's criminogenic need areas. This targeting facilitates opportunities to reduce risk to reoffend.

The Parole Board supports the provisions of HB 2507.

KANSAS PAROLE BOARD  
Marie McNeal, Administrator

**Corrections and Juvenile Justice**


**Date:** 2-5-10

**Attachment #** 3

Robert Sanders., Chairperson  
Patricia Biggs, Member  
Tom Sawyer, Member

**MEMORANDUM**

**To:** House Corrections and Juvenile Justice Committee  
Chairperson Colloton, Vice-Chairperson Patton

**From:** Kansas Parole Board, Patricia Biggs, Member 

**Date:** February 5, 2010

**Re:** 2010 HB 2508 – maximum “pass” duration

- The concept of 2010 HB 2508 generated from the Parole Board Oversight Committee work of this past interim session.
- This bill provides a maximum deferral or pass period between parole board hearings for non-parole suitable candidates be reduced to five years from the present ten year provision.
- Further, any incarcerated offender who had received a prior deferral of greater than five years will be reconsidered for parole suitability by the Parole Board during the coming two year cycle beginning with those with the oldest decision date.
- Current Provisions:
  - A, B or Off-Grid Felonies : The Board is required by statute to hold another hearing regarding parole suitability within three (3) years unless compelling reasons exist that would make parole suitability unlikely within this time period at which point an extended pass may be issued for up to ten (10) years if reasons for the extended pass are provided in the decision. (K.S.A. 22-3717 (j)).
  - C,D and E Felonies: The Board is required by statute to hold another hearing regarding parole suitability within one (1) year unless compelling reasons exist that would make parole suitability unlikely within this time period at which point an extended pass may be issued for up to three (3) years if reasons for the extended pass are provided in the decision (K.S.A. 22-3717 (j)).

**Considerations:**

1. Deferrals of more than 5 years are not frequently used by the Board. Deferrals of 10 years are considered very seriously before those decisions are rendered and are used even more rarely. This pool of offenders is very small when considering the prison population. This pool of offenders is consistent with the concept of reserving incarceration for the most serious and violent offenders and in providing for public safety.

**Scope:**

- Of the 8602 total inmate population on June 30, 2009, 1637 (19%) require a suitability determination by the parole board.
- Of the 1637 who must achieve a suitability determination,

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KANSAS PAROLE BOARD

Marie McNeal, Administrator



- 639 have at least one offense of an off-grid severity.
- 227 have an old-law offense equal to a present guidelines severity level 1 or 2.
  - These 866 (639+227) constitute the A, B, and Off-Grid felonies who, with extended reason, the parole board could pass for up to ten years.
  - These 866 represent 10% (866/8602) of the total prison population.

Source: KSC prison pop projections

- In current prison population, 74 offenders have a deferral of five years or more.
- Of these, only 37 offenders have a ten year deferral.

Usage Rates:

- Extended deferrals greater than five years and equaling ten years by the Number of Decisions Rendered by the KPB by year:

	Decisions Total Pass Rendered Decisions	Deferrals >5 years	Deferral of 10 years
2006	860	286	4
2007	760	297	19
2008	662	289	25
2009	642	230	10

- Only 37 offenders incarcerated have a pass duration of ten years.
  - This represents 4.3% (37/866) of the pool who are eligible for a pass duration of ten years.
- Only 74 offenders incarcerated have a pass duration of more than five years.
  - This represents 8.5% (74/866) of the pool who are eligible for a pass duration in excess of five years.

Violence Description:

- The crimes of conviction for these 37 offenders with a deferral of ten years:
  - 47 homicides
  - 17 sex crimes (inclusive of those against adults or children)
  - 34 other serious person crimes (aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated assault, aggravated battery)


2. Consideration must be given to the victims of the crimes who make personal investment – emotional and financial burdens – to attend public comment sessions in opposition to offender release.
  - Comments received constitute one of the statutory factors the board must consider.

The board takes no position on this bill and views it as a policy decision.

Robert Sanders, Chairperson  
Patricia Biggs, Member  
Tom Sawyer, Member

**MEMORANDUM**

**To:** House Corrections and Juvenile Justice Committee  
Chairperson Colloton, Vice-Chairperson Patton

**From:** Kansas Parole Board, Patricia Biggs, Member 

**Date:** February 5, 2010

**Re:** 2010 HB 2509 – work release placement and multidisciplinary team review

- The concept of 2010 HB 2509 generated from the Parole Board Oversight Committee work of this past interim session.
- This bill concept is to have the multidisciplinary team review offenders potentially subject to sexually violent predator status prior to their placement by the Secretary of Corrections in the work release setting.
  - The Board suggested this as a way to remove a potential barrier in the facilitation of transitional programming for long-term incarcerated offenders with the explicit belief that the transitional programming of the work release program can reduce an offender's risk to reoffend.
- The Department of Corrections, SRS, and the Parole Board reviewed the current bill draft for operational challenges. This review resulted in the balloon amendment suggestion which places the provision in the K.S.A. 75-5267 dealing with Work Release placement rather than K.S.A. 59-29a03 dealing with the commitment of sexually violent predators.
- The Board supports the balloon amendment but acknowledges that the Secretary of Corrections retains the final decision on offender placement which may not solve all of the barrier issues faced presently in successful transition of long-term offenders.

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**Date:** 2-5-10

**Attachment #** 5

KANSAS PAROLE BOARD

Marie McNeal, Administrator

Testimony on HB 2504  
to  
The House Corrections and Juvenile Justice Committee

By Roger Werholtz  
Secretary  
Kansas Department of Corrections  
February 5, 2010

The Department of Corrections supports HB 2504. HB 2504 amends the provisions of K.S.A. 21-4722 and 22-3717 to repeal the rule that any good time earned and retained by an inmate while serving the prison portion of his or her sentence is to be added to extend the offender's postrelease supervision obligation. For example, if an inmate earns 6 months time off his or her prison sentence due to his or her good behavior, he or she must be under postrelease supervision for an additional 6 months. In other words, that offender who would otherwise have a 3 year postrelease supervision obligation would, due to his or her good behavior in prison, be required to serve 3 ½ years under postrelease supervision.

The Department is of the opinion that lengthening the postrelease supervision obligation of an offender solely due to that person's good behavior while incarcerated is counterproductive and increases the expenditure of supervision resources without a corresponding public safety benefit.

While HB 2504 would eventually reduce the length of time spent under postrelease supervision for offenders who had earned good time while incarcerated, the impact of this change would not be reflected in the number of offenders under postrelease supervision in the near future unless the provisions of HB 2504 were applied retroactively. If the provisions of HB 2504 are to be applied prospectively only, any impact on the number of persons on postrelease supervision and the length of their obligation would only be felt for new admissions and only after that offender had served his or her prison sentence and the usual period of post release supervision.

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Attachment # 6

**DEPARTMENT OF CORRECTIONS**


**KANSAS**  
**PAROLE BOARD**

Mark Parkinson, Governor

Robert Sanders, Chairperson  
Patricia Biggs, Member  
Tom Sawyer, Member

**MEMORANDUM**

**To:** House Corrections and Juvenile Justice Committee  
Chairperson Colloton, Vice-Chairperson Patton

**From:** Kansas Parole Board, Patricia Biggs, Member 

**Date:** February 5, 2010

**Re:** 2010 HB 2504 – elimination of goodtime tacking to post release supervision

- Current Policy: Offenders released under determinate sentencing structure serve a community term of post release supervision equal to the sum of the post release supervision imposed by the Court at sentencing plus any goodtime credits earned within the prison setting.
- Bill Provisions: HB 2504 proposes to eliminate the prison goodtime earnings from the duration of post release supervision yielding a post release supervision term consistent with that imposed by the Court.
- Conclusion: The "tacking" of prison goodtime earnings to the duration of post release supervision is not an evidence-based practice and does not yield reductions in community risk nor in offender returns to prison. The Board therefore supports the provisions of HB 2504.

Corrections and Juvenile Justice

Date: 2-10-10

Attachment # 7

KANSAS PAROLE BOARD

Marie McNeal, Administrator

Testimony on HB 2504  
to  
The House Corrections and Juvenile Justice Committee

By Roger Werholtz  
Secretary  
Kansas Department of Corrections  
February 5, 2010

The Department of Corrections supports HB 2504. HB 2504 amends the provisions of K.S.A. 21-4722 and 22-3717 to repeal the rule that any good time earned and retained by an inmate while serving the prison portion of his or her sentence is to be added to extend the offender's postrelease supervision obligation. For example, if an inmate earns 6 months time off his or her prison sentence due to his or her good behavior, he or she must be under postrelease supervision for an additional 6 months. In other words, that offender who would otherwise have a 3 year postrelease supervision obligation would, due to his or her good behavior in prison, be required to serve 3 ½ years under postrelease supervision.

The Department is of the opinion that lengthening the postrelease supervision obligation of an offender solely due to that person's good behavior while incarcerated is counterproductive and increases the expenditure of supervision resources without a corresponding public safety benefit.

While HB 2504 would eventually reduce the length of time spent under postrelease supervision for offenders who had earned good time while incarcerated, the impact of this change would not be reflected in the number of offenders under postrelease supervision in the near future unless the provisions of HB 2504 were applied retroactively. If the provisions of HB 2504 are to be applied prospectively only, any impact on the number of persons on postrelease supervision and the length of their obligation would only be felt for new admissions and only after that offender had served his or her prison sentence and the usual period of post release supervision.

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Attachment # 8

DEPARTMENT OF CORRECTIONS