

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 1:30 p.m. on March 15, 2010, in Room 144-S of the Capitol.

All members were present except:

Representative Stan Frownfelter- excused
Representative Charlie Roth- 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
Jackie Lunn, Committee Assistant

Conferees appearing before the Committee:

Lara Blake Bors, Assistant Finney County Attorney,
Wade Bowie, Assistant District Attorney, Douglas County

Others attending:

See attached list.

Lara Blake Bors, Assistant Finney County Attorney,
Wade Bowie, Assistant District Attorney, Douglas County

Chairperson Colloton called the meeting to order and called the Committee's attention to a handout from the PEW Foundation, "*Reforming Mississippi's Prison System*". ([Attachment 1](#)) She explained to the Committee that Mississippi passed a bill in 2008 increasing their good time credit policy for non-violent offenders making them eligible for parole after serving 25 percent of their prison sentence putting the risk analysis instrument to work through the parole board. How to use the risk analysis instrument in a way to save money.

SB 459 - Juvenile offenders; jury trials

Chairperson Colloton opened the floor for the continuation of the hearing on **SB 459**. She called on Jason Thompson, Office of the Revisor, to review the bill. Mr. Thompson stated the bill would clarify the court has the discretion to revoke, without notice, the stay and juvenile sentence of the extended jurisdiction of a juvenile offender and order the imposition of the adult sentence if the court finds that a juvenile committed a new offense or violated one or more conditions of the Juvenile's sentence.

Chairperson Colloton introduced Natalie Gibson, Kansas Judicial Council, a proponent of the bill. Ms. Gibson explained the bill further and called the Committee's attention to her written response to questions asked in the first portion of the hearing on the bill on March 9, 2010. ([Attachment 2](#)) Ms. Gibson then introduced Wade Bowie, Assistant District Attorney, Douglas County, and a member of a Child in Need of Care and Juvenile Offender Advisory Committee. Mr. Bowie explained the options of the juvenile sentencing to the Committee while addressing their questions.

Upon the conclusion of Mr. Bowie's testimony, Chairperson Colloton introduced, Lara Blake Bors, Assistant Finney County Attorney, representing the Kansas County and District Attorneys Association, to give follow-up opponent testimony on **SB 459**. Ms. Bors addressed the questions of the Committee while giving her follow-up testimony stating she is not in favor of the bill.

A question and answer session followed regarding the language change from "may" to "shall" with some Committee members having concerns.

Chairperson Colloton called for others wishing to testify, being none, she closed the hearing on **SB 459** and announced to the Committee they would work this bill tomorrow along with others previously heard.

The meeting was adjourned at 2:40 p.m. with the next meeting scheduled for March 16, 2010 at 1:30 p.m in room 144-SW.

CORRECTIONS & JUVENILE JUSTICE GUEST LIST

DATE: 3-15-10

NAME	REPRESENTING
Natalie Dubson	Kansas Judicial Council
Wade Bowie	for KJC
Wigh Keck	Hein law firm
Mark Gleeson	Judicial Branch
Jim Rex	KCSL
Richard Summers	Keamy & Assoc.
Jennifer Cho	Children's Alliance

Colleagues:

At the request of the Public Safety Performance Project of the Pew Center on the States, the JFA Institute worked with the Mississippi Department of Corrections to analyze recent developments in the state and produce *Reforming Mississippi's Prison System*, a memorandum documenting the reforms and their impact on the state's prison population.

Mississippi provides an example of a state that, prior to the fiscal crisis, began a series of sentencing reforms with broad support that were designed to enhance public safety and control corrections costs by concentrating its prison space on more serious offenders. The most significant reform changed the state's "truth-in-sentencing" law. Non-violent offenders in Mississippi are now eligible for parole after serving 25 percent of their prison sentence, down from the requirement of 85 percent that was established in 1995. This change was passed by the legislature and signed into law in 2008 by Governor Haley Barbour.

The JFA Institute analysis found:

- By instituting changes to its parole eligibility requirements and parole risk assessment instrument, Mississippi between July 2008 and August 2009 released 3,076 inmates earlier than they would have been under prior law. The median sentence reduction of those released was 13 months.
- Through August 2009, 121 of those released offenders have been returned to custody—116 for technical violations of parole; five for non-violent offenses. One reason for the low recidivism rate is the use of a newly-developed risk assessment instrument to help authorities decide which inmates are suitable for release.
- The JFA Institute estimates that the reforms will permit Mississippi to avoid having to build and operate an additional 5,000 prison beds over the next 10 years.

While these results are encouraging, it is important to recognize that they are preliminary. The most recent of the legislative changes took effect in July 2008 so their long-term impact remains to be seen. Moreover, the report does not address any efforts that the state is taking to ensure strong supervision of the additional parolees.

We hope that you find this document to be informative and helpful in understanding the different approaches that states are taking to control the prison population while maximizing public safety.

This memorandum was produced by the JFA Institute, in conjunction with the Mississippi Department of Corrections, at the request of the Public Safety Performance Project of The Pew Center on the States. The informational content and conclusions expressed in this memorandum are those of the JFA Institute and do not necessarily reflect those of The Pew Charitable Trusts.

Corrections and Juvenile Justice
Date: 3-15-10
Attachment # 1



KANSAS JUDICIAL COUNCIL

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Kansas Judicial Center
301 S.W. Tenth Street, Suite 140
Topeka, Kansas 66612-1507

Telephone (785) 296-2498
Facsimile (785) 296-1035

judicial.council@ksjc.state.ks.us
www.kansasjudicialcouncil.org

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TO: Representative Pat Colloton, Chair
House Corrections and Juvenile Justice Committee

From: Natalie Gibson, Kansas Judicial Council

Re: Senate Bill 459

Date: March 12, 2010

In the hearing on SB 459, Tuesday, March 9th, the Committee asked about the typical conditions ordered in an Extended Jurisdiction Juvenile (EJJ) case. While there are variations, depending the circumstances in the case and services offered in the community, conditions in EJJ cases are usually the same as in regular juvenile cases. Some of the conditions typically entered are:

- regular reporting to Court Services Officer or Juvenile Justice Authority, and being truthful with them;
- notification of contact with law enforcement;
- notification of changes in residence;
- class attendance, or in the alternative work and GED;
- curfew;
- no contact orders with co-defendants, and avoid people on probation or parole;
- no contact orders with victims;
- community service;
- payment of fines, costs, etc.;
- alcohol and drug evaluation and follow-up (including treatment);
- no purchase of alcohol or drugs, and avoid being in places where alcohol is served.

Depending on the individual case and the services offered in the community, mental health evaluation and/or counseling, or anger management counseling may also be ordered.

Corrections and Juvenile Justice

Date: 3-15-10

Attachment # 2-1

I have enclosed a few "real world" examples from two jurisdictions in Kansas (identifying information has been removed) that represent what could be considered as a "starting point" for terms and conditions ordered in many, if not most, juvenile offender cases, including EJJ cases, in which the juvenile portion of the sentence is probation or some community based program. If the offender's juvenile sentence is to the custody of the Commissioner, there are a different set of requirements and the court can only recommend terms and conditions (with some particular exceptions such as suspending/restricting driving privileges, etc.)

The Committee also asked how often juvenile cases were prosecuted under this extended jurisdiction. According to the Kansas Sentencing Commission, in FY 2009, 7 EJJ convictions were reported on adult journal entries. In three of these, the underlying adult sentences were prison sentences while 4 were probation sentences. The convictions originated in Allen, Ellsworth, Greeley and Sedgwick counties. Offenses for which probation was ordered as the underlying sentence included fleeing and eluding, burglary and criminal possession of a firearm. Offenses for which prison was the underlying adult sentence included 2nd degree murder, aggravated robbery and aggravated criminal sodomy. Records indicated that 1 EJJ offender was revoked and sent to KDOC during FY 2009.

While these numbers appear low, it is important to note that they likely only pertain to the number of EJJ offenders who had their juvenile sentence revoked. It would not include those juvenile offenders who, although sentenced under EJJ, successfully completed the juvenile sentence and were not revoked. According to the Office of Judicial Administration and the Juvenile Justice Authority, juvenile journal entries are not tracked so there isn't any way to determine the actual number of EJJ prosecutions short of contacting every juvenile court.

Please let me know if you would like any additional information.

Sincerely,



Natalie Gibson
Staff Attorney
Kansas Judicial Council

Enc. NFG

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

In the Matter of John Doe
DOB: XX/XX/1994 Juvenile

Case No. ~~XXXX-JV-XXXX~~
Juvenile Division

ORDER OF ASSIGNMENT TO JUVENILE SERVICES

NOW on this ___ th day of _____ 20xx, the Juvenile is before the Court and represented by counsel; the Court, after due consideration of all information given, finds that the best interest of the Juvenile would best be served by placing the Juvenile on probation to be supervised by Juvenile Services.

IT IS THEREFORE BY THE COURT ORDERED that the Juvenile be placed on probation subject to the following conditions:

- 1) That I will live with my parents and obey all of their reasonable requests;
- 2) That I will obey all federal, state, and local laws and ordinances and report any police contact to my Juvenile Services Officer (JSO) immediately;
- 3) That I will not consume, ingest, or possess restricted drugs, alcohol and/or paraphernalia. That I will submit to random drug and alcohol screens during the course of my probation at the request of my JSO, if the JSO has reasonable and articulable suspicion that I am using or have been using illegal drugs/or alcohol. I will be required to pay for all tests results as directed by my JSO;
- 4) That I will allow JSOs and/or Surveillance Officers to search backpacks, locker, pockets, bedroom and any other personal items;
- 5) That I will participate in and successfully complete any family counseling, group therapy, social skills group, drug and alcohol evaluation/ counseling, medication evaluation/ management, etc. as recommended;
- 6) That I will pay all court costs and restitution as ordered by the Court;
- 7) That I will attend school each and every day it is in session, and obey all school rules with no unexcused absences. I will actively participate in and work to the best of my ability in my educational program. I agree to maintain satisfactory grades, attendance, and citizenship. I will not be within one block of any school grounds unless enrolled, attending classes, on approved school business or with school officials, parents or guardians. I will notify my JSO by 8:30 a.m. any day I am absent from school.
- 8) That I will complete twenty (20) hours of community service work with credit given for positive activities;
- 9) That I will meet with my JSO as directed and abide by all reasonable requests made by

- my JSO to include a curfew;
- 10) I understand that I will be monitored by field and phone surveillance. I understand that it is my responsibility to contact the surveillance phone at xxx-xxxx when I leave the house. I am only allowed to leave my home after curfew with a parent or with express approval from my JSO. I will tell surveillance where I am going and who I am leaving with. When I return to the home, I will call the surveillance phone and inform surveillance that I am home.
 - 11) That I will not have nor associate with anyone who has any weapon. I will not possess nor associate with anyone who possesses firearms, ammunition, gun clips, martial arts weaponry, and knives of any kind while I am on ISP, including any replica of any weapon or diagrams/instructions for any explosive device. I will not involve myself in activities in which weapons are used, i.e., hunting or target shooting. I will not remain in any vehicle where anyone has such a weapon;
 - 12) That I will not wear, display, use or possess any insignia emblem, button, badge, cap, hat, scarf, bandanna, or any article of clothing which is evidence of affiliation with or membership in any street gang.
 - 13) That I will not have any contact or associate with known offenders or gang members;
 - 14) That I will not leave _____ County without the written and/or verbal approval of my JSO;
 - 15) That I will provide any documentation (pay stubs, work schedules, grade cards, etc.) requested by my JSO to certify my compliance with the ISP Program;
 - 16) That I will not serve as an undercover agent or informant for any law enforcement agency without the express approval of the Court; and
 - 17) I will not attempt to intimidate a witness or victim, or knowingly permit any attempt to be made to intimidate a witness or victim.

I HAVE READ THE ABOVE RULES AND UNDERSTAND THE TERMS AND CONDITIONS of Probation. I will comply with all conditions. Further, I understand that if I do not comply with these conditions, I may be removed from my home and placed in a group home, detention facility or youth center.

Client

Address

I have read these conditions and fully understand them. I will do everything in my power to insure that my child abides by these provisions and to cooperate with the Court and the Juvenile Services Officer. Failure to cooperate and/or report my child's violations to the supervising officer may result in Court action.

Parent/ Guardian

I hereby attest that I have explained in detail each of the above conditions to the juvenile and parent. I further attest that I will keep the court informed as to the progress of said juvenile.

Juvenile Services Officer

IT IS SO ORDERED.

DATE: _____

Judge

CC: DA / AJV / JSO

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

In the Matter of John Doe
DOB: XX/XX/1994 Juvenile

Case No. ~~XXXX-JV-XXXX~~
Juvenile Division

ORDER OF ASSIGNMENT TO YOUTH SERVICES

NOW on this ___ th day of _____ 20xx the Juvenile is before the Court and represented by counsel; the Court, after due consideration of all information given, finds that the best interest of the Juvenile would best be served by placing the Juvenile on probation to be supervised by Juvenile Services.

IT IS THEREFORE BY THE COURT ORDERED that the Juvenile be placed on probation subject to the following conditions:

- 1) That I will live with my father and obey all of his reasonable requests;
- 2) That I will obey all federal, state, and local laws and ordinances and report any police contact to my Juvenile Services Officer (JSO) immediately;
- 3) That I will not consume, ingest, or possess restricted drugs, alcohol and/or paraphernalia. That I will submit to random drug and alcohol screens and be required to pay for all test results as directed by my JSO;
- 4) That I will allow JSOs and/or Surveillance Officers to search backpacks, locker, pockets, bedroom and any other personal items.
- 5) That I will participate in and successfully complete any family counseling, group therapy, social skills group, drug and alcohol evaluation/ counseling, medication evaluation/ management, etc. as recommended;
- 6) That I will pay all court costs and restitution as ordered by the Court;
- 7) That I will attend the Day Detention School every day, as prescribed by the law and abide by all conditions of my Day Detention/ House Arrest Order. When I successfully transition back to regular school I will attend school each and every day it is in session, and obey all school rules with no unexcused absences. I will actively participate in and work to the best of my ability in my educational program. I agree to maintain satisfactory grades, attendance, and citizenship. I will not be within one block of any school grounds unless enrolled, attending classes, on approved school business or with school officials, parents or guardians. I will notify my JSO by 8:30 a.m. any day I am absent from school.
- 8) That I will complete twenty (20) hours of community service work with credit given for positive activities;
- 9) That I will meet with my JSO as directed and abide by all reasonable requests made by

- my JSO to include a curfew;
- 10) I understand that I will be monitored by field and phone surveillance. I understand that it is my responsibility to contact the surveillance phone at xxx-xxxx when I leave the house. I am only allowed to leave my home after curfew with a parent or with the express approval from my JSO. I will tell surveillance where I am going and who I am leaving with. When I return to the home, I will call the surveillance phone and inform surveillance that I am home.
 - 11) That I will not have nor associate with anyone who has any weapon. I will not possess nor associate with anyone who possesses firearms, ammunition, gun clips, martial arts weaponry, or knives of any kind while I am on ISP, including any replica of any weapon or diagrams/instructions for any explosive device. I will not involve myself in activities in which weapons are used, i.e., hunting or target shooting. I will not remain in any vehicle where anyone has such a weapon;
 - 12) That I will not wear, display, use or posses any insignia emblem, button, badge, cap, hat, scarf, bandanna, or any article of clothing which is evidence of affiliation with or membership in any street gang.
 - 13) That I will not have any contact or associate with known offenders or gang members;
 - 14) That I will not leave _____ County without the written and/or verbal approval of my JSO;
 - 15) That I will provide any documentation (pay stubs, work schedules, grade cards, etc.) requested by my JSO to certify my compliance with the ISP Program;
 - 16) That I will complete a drug and alcohol evaluation and follow all recommendations.
 - 17) That I will not serve as an undercover agent or informant for any law enforcement agency without the express approval of the Court; and
 - 18) I will not attempt to intimidate a witness or victim, or knowingly permit any attempt to be made to intimidate a witness or victim.

I HAVE READ THE ABOVE RULES AND UNDERSTAND THE TERMS AND CONDITIONS of Probation. I will comply with all conditions. Further, I understand that if I do not comply with these conditions, I may be removed from my home and placed in a group home, detention facility or youth center.

Client

Address

I have read these conditions and fully understand them. I will do everything in my power to insure that my child abides by these provisions and to cooperate with the Court and Juvenile

Services. Failure to cooperate and/or report my child's violations to Juvenile Services may result in Court action.

Parent/ Guardian

I hereby attest that I have explained in detail each of the above conditions to the juvenile and parent. I further attest that I will keep the court informed as to the progress of said juvenile.

Juvenile Services Officer

IT IS SO ORDERED.

DATE: _____

Judge

CC: DA / AJV / JSO

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

IN THE MATTER OF

_____, RESPONDENT

CASE NO. xxxx-JV-xxxx

YEAR OF BIRTH:

A MALE/FEMALE UNDER THE AGE OF 18 YEARS.

TERMS AND CONDITIONS OF PROBATION

In accordance with authority conferred by the laws of Kansas, you have been placed on probation under supervision of Community Corrections on _____ for a period of ____ by the Honorable _____, Judge of the _____ County District Court for committing the offense(s) of _____.

It is the Order of the Court that you shall comply with the following general and special terms and conditions of probation:

- ____ 1. Do not commit any new law violation; conviction/adjudication is not required to revoke probation.
- ____ 2. Not to have contact with any person or be in any place specified by the Court or Community Corrections Officer.
- ____ 3. Report to the Community Corrections Officer as directed.
- ____ 4. Permit the Community Corrections Officer to visit you at your home or elsewhere.
- ____ 5. Obey all the reasonable and lawful commands and directions of your parent(s) and/or those persons having control over you.
- ____ 6. Remain within the area specified by the Community Corrections Officer. You shall not leave the State of Kansas without first receiving permission and written travel permit from the Community Corrections Officer.
- ____ 7. To be truthful with the Community Corrections Officer in all matters.

Conditions of Probation

Case #: xx-JV-xxxx

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- ___ 8. Obtain your Community Corrections Officer's consent before changing employment, residence or phone number.
- ___ 9. Remain in school and maintain passing grades or pursue an alternative educational/occupational plan approved by your Community Corrections Officer.
- ___ 10. No possession or consumption of alcohol or illegal drugs.
- ___ 11. Not to have in your possession any firearms, ammunition, explosive, deadly weapon or prohibited weapon.
- ___ 12. Upon reasonable suspicion, residence or vehicle may be searched to determine compliance with probation terms.
- ___ 13. Not to use or possess any surveillance equipment or devices, including web cameras.
- ___ 14. I understand that I CANNOT become involved as an informant for any Law Enforcement Agency while I am under the supervision of the ___th Judicial District Community Corrections Program.
- ___ 15. Pay the amounts ordered by the Court and any additional costs or fees that may become due and owing during the term of probation. **All financial obligations must be paid prior to termination of probation.** All costs and assessments ordered will be subject to an additional collection fee if not paid as ordered.

Estimated total: _____

To be paid to the Clerk of the _____ County District Court as follows:

THE SPECIAL CONDITIONS ORDERED BY THE COURT ARE AS FOLLOWS:

[enter here any additional or special conditions that are applicable]

The Court may at any time revoke your probation for cause, modify the condition of probation, and reduce or extend the period of probation. Furthermore, if your supervision is transferred to another Judicial District or State, you do hereby agree to cooperate fully with any additional terms required by that jurisdiction.

[name of supervising officer], Date
Juvenile Intensive Supervision Officer

I have read or have had explained to me and I understand the foregoing conditions and I will abide by them.

_____, Signature of Probationer
[name of offender]
Name of Client

I understand that my child has been placed on probation and that the Court has ordered that I assist in the monitoring of this probation. I further acknowledge that it is my responsibility to report to the Court or to the supervision officer any violations of this probation and that failure to do so may result in a contempt citation.

Parent/Guardian

Parent/Guardian

10/09